

A-Engrossed
Senate Bill 1051

Ordered by the Senate June 12
Including Senate Amendments dated June 12

Sponsored by Senator G GEORGE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes, as conditional use on lands zoned for exclusive farm use, siting of facility for storage of aerial display fireworks by holder of permit issued by State Fire Marshal.

Authorizes State Fire Marshal to regulate storage of aerial display fireworks. **Prohibits storage of aerial display fireworks without permit from State Fire Marshal.**

A BILL FOR AN ACT

1
2 Relating to storage of fireworks; creating new provisions; and amending ORS 215.213, 215.263,
3 215.283 and 480.160.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 215.213 is amended to read:

6 215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991
7 Edition), the following uses may be established in any area zoned for exclusive farm use:

8 (a) Public or private schools, including all buildings essential to the operation of a school.

9 (b) Churches and cemeteries in conjunction with churches.

10 (c) The propagation or harvesting of a forest product.

11 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
12 not including commercial facilities for the purpose of generating electrical power for public use by
13 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
14 may be established as provided in ORS 215.275.

15 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
16 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
17 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
18 operator does or will require the assistance of the relative in the management of the farm use and
19 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
20 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
21 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
22 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
23 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
24 shall operate as a partition of the homesite to create a new parcel.

25 (f) Nonresidential buildings customarily provided in conjunction with farm use.

26 (g) Primary or accessory dwellings customarily provided in conjunction with farm use. For a
27 primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm opera-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 tion and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowl-
2 edged under ORS 197.251.

3 (h) Operations for the exploration for and production of geothermal resources as defined by ORS
4 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
5 compressors, separators and other customary production equipment for an individual well adjacent
6 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
7 an exception under ORS 197.732 (1)(a) or (b).

8 (i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
9 construction relating to such operations shall not be a basis for an exception under ORS 197.732
10 (1)(a) or (b).

11 (j) A site for the disposal of solid waste that has been ordered to be established by the Envi-
12 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
13 necessary for its operation.

14 (k) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
15 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
16 hardship suffered by the existing resident or a relative of the resident. Within three months of the
17 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
18 ished or, in the case of an existing building, the building shall be removed, demolished or returned
19 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
20 view of the hardship claimed under this paragraph. A temporary residence approved under this
21 paragraph is not eligible for replacement under paragraph (t) of this subsection.

22 (L) The breeding, kenneling and training of greyhounds for racing in any county with a popu-
23 lation of more than 200,000 in which there is located a greyhound racing track or in a county with
24 a population of more than 200,000 that is contiguous to such a county.

25 (m) Climbing and passing lanes within the right of way existing as of July 1, 1987.

26 (n) Reconstruction or modification of public roads and highways, including the placement of
27 utility facilities overhead and in the subsurface of public roads and highways along the public right
28 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
29 would occur, or no new land parcels result.

30 (o) Temporary public road and highway detours that will be abandoned and restored to original
31 condition or use at such time as no longer needed.

32 (p) Minor betterment of existing public road and highway related facilities, such as maintenance
33 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
34 public-owned property utilized to support the operation and maintenance of public roads and high-
35 ways.

36 (q) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
37 been listed in a county inventory as historic property as defined in ORS 358.480.

38 (r) Creation of, restoration of or enhancement of wetlands.

39 (s) A winery, as described in ORS 215.452.

40 (t) Alteration, restoration or replacement of a lawfully established dwelling that:

41 (A) Has intact exterior walls and roof structure;

42 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
43 a sanitary waste disposal system;

44 (C) Has interior wiring for interior lights;

45 (D) Has a heating system; and

1 (E) In the case of replacement:

2 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
3 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
4 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
5 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
6 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
7 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
8 deed records for the county where the property is located a deed restriction prohibiting the siting
9 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
10 a statement of release is placed in the deed records for the county. The release shall be signed by
11 the county or its designee and state that the provisions of this paragraph regarding replacement
12 dwellings have changed to allow the siting of another dwelling. The county planning director or the
13 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
14 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
15 and release statements filed under this paragraph; and

16 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
17 ished within three months after the deferred replacement permit is issued. A deferred replacement
18 permit allows construction of the replacement dwelling at any time. If, however, the established
19 dwelling is not removed or demolished within three months after the deferred replacement permit
20 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
21 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
22 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
23 or otherwise, except by the applicant to the spouse or a child of the applicant.

24 (u) Farm stands if:

25 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
26 farm operation, or grown on the farm operation and other farm operations in the local agricultural
27 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
28 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
29 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
30 and

31 (B) The farm stand does not include structures designed for occupancy as a residence or for
32 activity other than the sale of farm crops or livestock and does not include structures for banquets,
33 public gatherings or public entertainment.

34 (v) An armed forces reserve center, if the center is within one-half mile of a community college.
35 For purposes of this paragraph, "armed forces reserve center" includes an armory or National
36 Guard support facility.

37 (w) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
38 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
39 area or placed on a permanent foundation unless the building or facility preexisted the use approved
40 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
41 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model
42 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
43 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
44 ground.

45 (x) A facility for the processing of farm crops located on a farm operation that provides at least

1 one-quarter of the farm crops processed at the facility. The building established for the processing
2 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
3 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
4 activities within another building supporting farm uses. A processing facility shall comply with all
5 applicable siting standards but the standards shall not be applied in a manner that prohibits the
6 siting of the processing facility.

7 (y) Fire service facilities providing rural fire protection services.

8 (z) Irrigation canals, delivery lines and those structures and accessory operational facilities as-
9 sociated with a district as defined in ORS 540.505.

10 (aa) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
11 cilities or structures that end at the point where the utility service is received by the customer and
12 that are located on one or more of the following:

13 (A) A public right of way;

14 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
15 jacent property owners has been obtained; or

16 (C) The property to be served by the utility.

17 (bb) Subject to the issuance of a license, permit or other approval by the Department of Envi-
18 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
19 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
20 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
21 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
22 exclusive farm use zone under this chapter.

23 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
24 the following uses may be established in any area zoned for exclusive farm use subject to ORS
25 215.296:

26 (a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
27 product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm op-
28 eration or woodlot:

29 (A) Consists of 20 or more acres; and

30 (B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in
31 annual gross income from the crops, livestock or forest products to be raised on the farm operation
32 or woodlot.

33 (b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest
34 product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than re-
35 quired under paragraph (a) of this subsection, if the lot or parcel:

36 (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar
37 years out of the three calendar years before the year in which the application for the dwelling was
38 made or is planted in perennials capable of producing upon harvest an average of at least \$20,000
39 in annual gross farm income; or

40 (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross an-
41 nual income.

42 (c) Commercial activities that are in conjunction with farm use but not including the processing
43 of farm crops as described in subsection (1)(x) of this section.

44 (d) Operations conducted for:

45 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas

1 as defined by ORS 520.005, not otherwise permitted under subsection (1)(h) of this section;

2 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
3 sources subject to ORS 215.298;

4 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

5 (D) Processing of other mineral resources and other subsurface resources.

6 (e) Community centers owned by a governmental agency or a nonprofit community organization
7 and operated primarily by and for residents of the local rural community, hunting and fishing pre-
8 serves, public and private parks, playgrounds and campgrounds. Subject to the approval of the
9 county governing body or its designee, a private campground may provide yurts for overnight
10 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
11 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
12 Upon request of a county governing body, the Land Conservation and Development Commission may
13 provide by rule for an increase in the number of yurts allowed on all or a portion of the
14 campgrounds in a county if the commission determines that the increase will comply with the stan-
15 dards described in ORS 215.296 (1). A public park or campground may be established as provided
16 under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or
17 canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appli-
18 ance.

19 (f) Golf courses.

20 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

21 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
22 tenance and service facilities. A personal-use airport as used in this section means an airstrip re-
23 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
24 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
25 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
26 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
27 granted through waiver action by the Oregon Department of Aviation in specific instances. A
28 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
29 ject to any applicable rules of the Oregon Department of Aviation.

30 (i) A facility for the primary processing of forest products, provided that such facility is found
31 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
32 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
33 renewable. These facilities are intended to be only portable or temporary in nature. The primary
34 processing of a forest product, as used in this section, means the use of a portable chipper or stud
35 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
36 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
37 contiguous land where the primary processing facility is located.

38 (j) A site for the disposal of solid waste approved by the governing body of a city or county or
39 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
40 mental Quality together with equipment, facilities or buildings necessary for its operation.

41 (k) Dog kennels not described in subsection (1)(L) of this section.

42 (L) Residential homes as defined in ORS 197.660, in existing dwellings.

43 (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
44 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
45 shall not include any species under quarantine by the State Department of Agriculture or the United

1 States Department of Agriculture. The county shall provide notice of all applications under this
2 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
3 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
4 tive decision or initial public hearing on the application.

5 (n) Home occupations as provided in ORS 215.448.

6 (o) Transmission towers over 200 feet in height.

7 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way
8 but not resulting in the creation of new land parcels.

9 (q) Reconstruction or modification of public roads and highways involving the removal or dis-
10 placement of buildings but not resulting in the creation of new land parcels.

11 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh
12 stations and rest areas, where additional property or right of way is required but not resulting in
13 the creation of new land parcels.

14 (s) A destination resort that is approved consistent with the requirements of any statewide
15 planning goal relating to the siting of a destination resort.

16 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-
17 dences.

18 (u) A living history museum related to resource based activities owned and operated by a gov-
19 ernmental agency or a local historical society, together with limited commercial activities and fa-
20 cilities that are directly related to the use and enjoyment of the museum and located within
21 authentic buildings of the depicted historic period or the museum administration building, if areas
22 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
23 the museum administration buildings and parking lot are located within one quarter mile of the
24 metropolitan urban growth boundary. As used in this paragraph:

25 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
26 culture of some specific historic period using authentic buildings, tools, equipment and people to
27 simulate past activities and events; and

28 (B) "Local historical society" means the local historical society, recognized as such by the
29 county governing body and organized under ORS chapter 65.

30 (v) Operations for the extraction and bottling of water.

31 (w) An aerial fireworks display business that has been in continuous operation at its current
32 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
33 permit to sell or provide fireworks.

34 **(x) A facility used for storing fireworks, as defined in ORS 480.110, that are for aerial**
35 **display, if:**

36 **(A) The lot or parcel on which the storage facility is situated is not high-value farmland,**
37 **as described in ORS 215.710.**

38 **(B) The primary use of the lot or parcel on which the storage facility is situated is not**
39 **the storage of fireworks.**

40 **(C) The storage facility does not contain:**

41 **(i) More than 400 square feet; or**

42 **(ii) An explosive, as defined in ORS 480.200.**

43 **(D) The storage facility complies with:**

44 **(i) The state building code, as defined in ORS 455.010;**

45 **(ii) Ordinances, rules or regulations of a municipality adopted pursuant to ORS 455.040;**

1 **and**

2 **(iii) Administrative rules adopted by the State Fire Marshal pursuant to ORS 480.150 and**
3 **section 6 of this 2007 Act.**

4 **(E) The person storing the aerial display fireworks holds the permits required by federal,**
5 **state and local governments for the storage of fireworks, including but not limited to the**
6 **permit required by section 5 of this 2007 Act.**

7 [(x)] (y) A landscaping business, as defined in ORS 671.520, or a business providing landscape
8 architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the
9 growing and marketing of nursery stock on the land that constitutes farm use.

10 (3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
11 a single-family residential dwelling not provided in conjunction with farm use may be established
12 on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by
13 the Agricultural Capability Classification System in use by the United States Department of Agri-
14 culture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval
15 of the governing body or its designee in any area zoned for exclusive farm use upon written findings
16 showing all of the following:

17 (a) The dwelling or activities associated with the dwelling will not force a significant change in
18 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

19 (b) The dwelling is situated upon generally unsuitable land for the production of farm crops and
20 livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location
21 and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size
22 or location if it can reasonably be put to farm use in conjunction with other land.

23 (c) Complies with such other conditions as the governing body or its designee considers neces-
24 sary.

25 (4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
26 one single-family dwelling, not provided in conjunction with farm use, may be established in any
27 area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that
28 is not larger than three acres upon written findings showing:

29 (a) The dwelling or activities associated with the dwelling will not force a significant change in
30 or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

31 (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a
32 geological hazard area, the dwelling complies with conditions imposed by local ordinances relating
33 specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is
34 applicable; and

35 (c) The dwelling complies with other conditions considered necessary by the governing body or
36 its designee.

37 (5) Upon receipt of an application for a permit under subsection (4) of this section, the governing
38 body shall notify:

39 (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be es-
40 tablished; and

41 (b) Persons who have requested notice of such applications and who have paid a reasonable fee
42 imposed by the county to cover the cost of such notice.

43 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
44 following the date of postmark of the notice to file a written objection on the grounds only that the
45 dwelling or activities associated with it would force a significant change in or significantly increase

1 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
2 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
3 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
4 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required
5 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
6 this section.

7 (7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1,
8 1948, and July 1, 1983. For the purposes of this section:

9 (a) Only one lot or parcel exists if:

10 (A) A lot or parcel described in this section is contiguous to one or more lots or parcels de-
11 scribed in this section; and

12 (B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels
13 or lots and parcels by the same person, spouses or a single partnership or business entity, separately
14 or in tenancy in common.

15 (b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including
16 but not limited to, lots, parcels or lots and parcels separated only by a public road.

17 (8) A person who sells or otherwise transfers real property in an exclusive farm use zone may
18 retain a life estate in a dwelling on that property and in a tract of land under and around the
19 dwelling.

20 (9) No final approval of a nonfarm use under this section shall be given unless any additional
21 taxes imposed upon the change in use have been paid.

22 (10) Roads, highways and other transportation facilities and improvements not allowed under
23 subsections (1) and (2) of this section may be established, subject to the approval of the governing
24 body or its designee, in areas zoned for exclusive farm use subject to:

25 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
26 goal with which the facility or improvement does not comply; or

27 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
28 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

29 **SECTION 2.** ORS 215.283 is amended to read:

30 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

31 (a) Public or private schools, including all buildings essential to the operation of a school.

32 (b) Churches and cemeteries in conjunction with churches.

33 (c) The propagation or harvesting of a forest product.

34 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
35 not including commercial facilities for the purpose of generating electrical power for public use by
36 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
37 may be established as provided in ORS 215.275.

38 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
39 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
40 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
41 operator does or will require the assistance of the relative in the management of the farm use and
42 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
43 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
44 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
45 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-

1 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
2 shall operate as a partition of the homesite to create a new parcel.

3 (f) Primary or accessory dwellings and other buildings customarily provided in conjunction with
4 farm use.

5 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
6 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
7 compressors, separators and other customary production equipment for an individual well adjacent
8 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
9 an exception under ORS 197.732 (1)(a) or (b).

10 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
11 construction relating to such operations shall not be a basis for an exception under ORS 197.732
12 (1)(a) or (b).

13 (i) A site for the disposal of solid waste that has been ordered to be established by the Envi-
14 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
15 necessary for its operation.

16 (j) The breeding, kenneling and training of greyhounds for racing.

17 (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

18 (L) Reconstruction or modification of public roads and highways, including the placement of
19 utility facilities overhead and in the subsurface of public roads and highways along the public right
20 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
21 would occur, or no new land parcels result.

22 (m) Temporary public road and highway detours that will be abandoned and restored to original
23 condition or use at such time as no longer needed.

24 (n) Minor betterment of existing public road and highway related facilities such as maintenance
25 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
26 public-owned property utilized to support the operation and maintenance of public roads and high-
27 ways.

28 (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
29 been listed in a county inventory as historic property as defined in ORS 358.480.

30 (p) Creation of, restoration of or enhancement of wetlands.

31 (q) A winery, as described in ORS 215.452.

32 (r) Farm stands if:

33 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
34 farm operation, or grown on the farm operation and other farm operations in the local agricultural
35 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
36 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
37 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
38 and

39 (B) The farm stand does not include structures designed for occupancy as a residence or for
40 activity other than the sale of farm crops or livestock and does not include structures for banquets,
41 public gatherings or public entertainment.

42 (s) Alteration, restoration or replacement of a lawfully established dwelling that:

43 (A) Has intact exterior walls and roof structure;

44 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
45 a sanitary waste disposal system;

1 (C) Has interior wiring for interior lights;

2 (D) Has a heating system; and

3 (E) In the case of replacement:

4 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
5 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
6 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
7 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
8 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
9 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
10 deed records for the county where the property is located a deed restriction prohibiting the siting
11 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
12 a statement of release is placed in the deed records for the county. The release shall be signed by
13 the county or its designee and state that the provisions of this paragraph regarding replacement
14 dwellings have changed to allow the siting of another dwelling. The county planning director or the
15 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
16 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
17 and release statements filed under this paragraph; and

18 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
19 ished within three months after the deferred replacement permit is issued. A deferred replacement
20 permit allows construction of the replacement dwelling at any time. If, however, the established
21 dwelling is not removed or demolished within three months after the deferred replacement permit
22 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
23 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
24 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
25 or otherwise, except by the applicant to the spouse or a child of the applicant.

26 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
27 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
28 area or placed on a permanent foundation unless the building or facility preexisted the use approved
29 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
30 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model
31 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
32 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
33 ground.

34 (u) A facility for the processing of farm crops located on a farm operation that provides at least
35 one-quarter of the farm crops processed at the facility. The building established for the processing
36 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
37 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
38 activities within another building supporting farm uses. A processing facility shall comply with all
39 applicable siting standards but the standards shall not be applied in a manner that prohibits the
40 siting of the processing facility.

41 (v) Fire service facilities providing rural fire protection services.

42 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities
43 associated with a district as defined in ORS 540.505.

44 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
45 cilities or structures that end at the point where the utility service is received by the customer and

1 that are located on one or more of the following:

2 (A) A public right of way;

3 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
4 jacent property owners has been obtained; or

5 (C) The property to be served by the utility.

6 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
7 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
8 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
9 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
10 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
11 exclusive farm use zone under this chapter.

12 (z) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to
13 provide rural law enforcement services primarily in rural areas, including parole and post-prison
14 supervision, but not including a correctional facility as defined under ORS 162.135.

15 (2) The following nonfarm uses may be established, subject to the approval of the governing body
16 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

17 (a) Commercial activities that are in conjunction with farm use but not including the processing
18 of farm crops as described in subsection (1)(u) of this section.

19 (b) Operations conducted for:

20 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
21 as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

22 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
23 sources subject to ORS 215.298;

24 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

25 (D) Processing of other mineral resources and other subsurface resources.

26 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
27 approval of the county governing body or its designee, a private campground may provide yurts for
28 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
29 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
30 foundation. Upon request of a county governing body, the Land Conservation and Development
31 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
32 of the campgrounds in a county if the commission determines that the increase will comply with the
33 standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed
34 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
35 internal cooking appliance.

36 (d) Parks and playgrounds. A public park may be established consistent with the provisions of
37 ORS 195.120.

38 (e) Community centers owned by a governmental agency or a nonprofit community organization
39 and operated primarily by and for residents of the local rural community. A community center au-
40 thorized under this paragraph may provide services to veterans, including but not limited to emer-
41 gency and transitional shelter, preparation and service of meals, vocational and educational
42 counseling and referral to local, state or federal agencies providing medical, mental health, disability
43 income replacement and substance abuse services, only in a facility that is in existence on January
44 1, 2006. The services may not include direct delivery of medical, mental health, disability income
45 replacement or substance abuse services.

1 (f) Golf courses.

2 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

3 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
4 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
5 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
6 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
7 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
8 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
9 granted through waiver action by the Oregon Department of Aviation in specific instances. A
10 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
11 ject to any applicable rules of the Oregon Department of Aviation.

12 (i) Home occupations as provided in ORS 215.448.

13 (j) A facility for the primary processing of forest products, provided that such facility is found
14 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
15 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
16 renewable. These facilities are intended to be only portable or temporary in nature. The primary
17 processing of a forest product, as used in this section, means the use of a portable chipper or stud
18 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
19 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
20 contiguous land where the primary processing facility is located.

21 (k) A site for the disposal of solid waste approved by the governing body of a city or county or
22 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
23 mental Quality together with equipment, facilities or buildings necessary for its operation.

24 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
25 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
26 hardship suffered by the existing resident or a relative of the resident. Within three months of the
27 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
28 ished or, in the case of an existing building, the building shall be removed, demolished or returned
29 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
30 view of the hardship claimed under this paragraph. A temporary residence approved under this
31 paragraph is not eligible for replacement under subsection (1)(s) of this section.

32 (m) Transmission towers over 200 feet in height.

33 (n) Dog kennels not described in subsection (1)(j) of this section.

34 (o) Residential homes as defined in ORS 197.660, in existing dwellings.

35 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
36 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
37 shall not include any species under quarantine by the State Department of Agriculture or the United
38 States Department of Agriculture. The county shall provide notice of all applications under this
39 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
40 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
41 tive decision or initial public hearing on the application.

42 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way
43 but not resulting in the creation of new land parcels.

44 (r) Reconstruction or modification of public roads and highways involving the removal or dis-
45 placement of buildings but not resulting in the creation of new land parcels.

1 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh
2 stations and rest areas, where additional property or right of way is required but not resulting in
3 the creation of new land parcels.

4 (t) A destination resort that is approved consistent with the requirements of any statewide
5 planning goal relating to the siting of a destination resort.

6 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
7 dences.

8 (v) Operations for the extraction and bottling of water.

9 (w) Expansion of existing county fairgrounds and activities directly relating to county
10 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

11 (x) A living history museum related to resource based activities owned and operated by a gov-
12 ernmental agency or a local historical society, together with limited commercial activities and fa-
13 cilities that are directly related to the use and enjoyment of the museum and located within
14 authentic buildings of the depicted historic period or the museum administration building, if areas
15 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
16 the museum administration buildings and parking lot are located within one quarter mile of an ur-
17 ban growth boundary. As used in this paragraph:

18 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
19 culture of some specific historic period using authentic buildings, tools, equipment and people to
20 simulate past activities and events; and

21 (B) "Local historical society" means the local historical society recognized by the county gov-
22 erning body and organized under ORS chapter 65.

23 (y) An aerial fireworks display business that has been in continuous operation at its current
24 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
25 permit to sell or provide fireworks.

26 (z) **A facility used for storing fireworks, as defined in ORS 480.110, that are for aerial
27 display, if:**

28 **(A) The lot or parcel on which the storage facility is situated is not high-value farmland,
29 as described in ORS 215.710.**

30 **(B) The primary use of the lot or parcel on which the storage facility is situated is not
31 the storage of fireworks.**

32 **(C) The storage facility does not contain:**

33 **(i) More than 400 square feet; or**

34 **(ii) An explosive, as defined in ORS 480.200.**

35 **(D) The storage facility complies with:**

36 **(i) The state building code, as defined in ORS 455.010;**

37 **(ii) Ordinances, rules or regulations of a municipality adopted pursuant to ORS 455.040;
38 and**

39 **(iii) Administrative rules adopted by the State Fire Marshal pursuant to ORS 480.150 and
40 section 6 of this 2007 Act.**

41 **(E) The person storing the aerial display fireworks holds the permits required by federal,
42 state and local governments for the storage of fireworks, including but not limited to the
43 permit required by section 5 of this 2007 Act.**

44 [(z)] **(aa)** A landscaping business, as defined in ORS 671.520, or a business providing landscape
45 architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the

1 growing and marketing of nursery stock on the land that constitutes farm use.

2 (3) Roads, highways and other transportation facilities and improvements not allowed under
3 subsections (1) and (2) of this section may be established, subject to the approval of the governing
4 body or its designee, in areas zoned for exclusive farm use subject to:

5 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
6 goal with which the facility or improvement does not comply; or

7 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
8 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

9 **SECTION 3.** ORS 215.263 is amended to read:

10 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
11 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
12 governing body or its designee of the county in which the land is situated. The governing body of
13 a county by ordinance shall require such prior review and approval for such divisions of land within
14 exclusive farm use zones established within the county.

15 (2) The governing body of a county or its designee may approve a proposed division of land to
16 create parcels for farm use as defined in ORS 215.203 if it finds:

17 (a) That the proposed division of land is appropriate for the continuation of the existing com-
18 mercial agricultural enterprise within the area; or

19 (b) The parcels created by the proposed division are not smaller than the minimum size estab-
20 lished under ORS 215.780.

21 (3) The governing body of a county or its designee may approve a proposed division of land in
22 an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283
23 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for
24 the use. The governing body may establish other criteria as it considers necessary.

25 (4) In western Oregon, as defined in ORS 321.257, but not in the Willamette Valley, as defined
26 in ORS 215.010, the governing body of a county or its designee:

27 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
28 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
29 vided in conjunction with farm use if:

30 (A) The nonfarm dwellings have been approved under ORS 215.213 (3) or 215.284 (2) or (3);

31 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
32 created prior to July 1, 2001;

33 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
34 the minimum size established under ORS 215.780;

35 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
36 complies with the minimum size established under ORS 215.780; and

37 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
38 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
39 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
40 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
41 forest use in conjunction with other land.

42 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
43 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

44 (A) The nonfarm dwellings have been approved under ORS 215.284 (2) or (3);

45 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully

1 created prior to July 1, 2001;

2 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
3 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

4 (D) The parcels for the nonfarm dwellings are:

5 (i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;
6 and

7 (ii) Composed of at least 90 percent Class VI through VIII soils;

8 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
9 and

10 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
11 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
12 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
13 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
14 forest use in conjunction with other land.

15 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:

16 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
17 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
18 vided in conjunction with farm use if:

19 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

20 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
21 created prior to July 1, 2001;

22 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
23 the minimum size established under ORS 215.780;

24 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
25 complies with the minimum size established under ORS 215.780; and

26 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
27 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
28 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
29 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
30 forest use in conjunction with other land.

31 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
32 two parcels, each to contain one dwelling not provided in conjunction with farm use if:

33 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);

34 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
35 created prior to July 1, 2001;

36 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
37 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;

38 (D) The parcels for the nonfarm dwellings are:

39 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;
40 and

41 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
42 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
43 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the
44 State Department of Agriculture and other interested persons, may establish by rule objective cri-
45 teria for identifying units of land that are not capable of producing adequate herbaceous forage for

1 grazing livestock. In developing the criteria, the commission shall use the latest information from
2 the United States Natural Resources Conservation Service and consider costs required to utilize
3 grazing lands that differ in acreage and productivity level;

4 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;
5 and

6 (F) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
7 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
8 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
9 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
10 forest use in conjunction with other land.

11 (6) This section does not apply to the creation or sale of cemetery lots, if a cemetery is within
12 the boundaries designated for a farm use zone at the time the zone is established.

13 (7) This section does not apply to divisions of land resulting from lien foreclosures or divisions
14 of land resulting from foreclosure of recorded contracts for the sale of real property.

15 (8) The governing body of a county may not approve:

16 (a) Any proposed division of a lot or parcel described in ORS 215.213 (1)(e) or (k), 215.283 (1)(e)
17 or (2)(L) or 215.284 (1);[or]

18 (b) A proposed division that separates a processing facility from the farm operation specified in
19 ORS 215.213 (1)(x) or 215.283 (1)(u)[.]; or

20 (c) **A proposed division that creates a lot or parcel for an aerial display fireworks storage**
21 **facility under ORS 215.213 (2)(x) or 215.283 (2)(z).**

22 (9) The governing body of a county may approve a proposed division of land in an exclusive farm
23 use zone to create a parcel with an existing dwelling to be used:

24 (a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved
25 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7); and

26 (b) For historic property that meets the requirements of ORS 215.213 (1)(q) and 215.283 (1)(o).

27 (10)(a) Notwithstanding ORS 215.780, the governing body of a county or its designee may ap-
28 prove a proposed division of land provided:

29 (A) The land division is for the purpose of allowing a provider of public parks or open space,
30 or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels;
31 and

32 (B) A parcel created by the land division that contains a dwelling is large enough to support
33 continued residential use of the parcel.

34 (b) A parcel created pursuant to this subsection that does not contain a dwelling:

35 (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

36 (B) May not be considered in approving or denying an application for siting any other dwelling;

37 (C) May not be considered in approving a redesignation or rezoning of forestlands except for a
38 redesignation or rezoning to allow a public park, open space or other natural resource use; and

39 (D) May not be smaller than 25 acres unless the purpose of the land division is:

40 (i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a
41 wildlife habitat protection plan; or

42 (ii) To allow a transaction in which at least one party is a public park or open space provider,
43 or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000
44 acres of open space or park property.

45 (11) The governing body of a county or its designee may approve a division of land smaller than

1 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone
2 provided:

3 (a) The division is for the purpose of establishing a church, including cemeteries in conjunction
4 with the church;

5 (b) The church has been approved under ORS 215.213 (1) or 215.283 (1);

6 (c) The newly created lot or parcel is not larger than five acres; and

7 (d) The remaining lot or parcel, not including the church, meets the minimum lot or parcel size
8 described in ORS 215.780 (1) and (2) either by itself or after it is consolidated with another lot or
9 parcel.

10 (12) The governing body of a county may not approve a division of land for nonfarm use under
11 subsection (3), (4), (5), (9), (10) or (11) of this section unless any additional tax imposed for the
12 change in use has been paid.

13 (13) Parcels used or to be used for training or stabling facilities may not be considered appro-
14 priate to maintain the existing commercial agricultural enterprise in an area where other types of
15 agriculture occur.

16 **SECTION 4. Sections 5 and 6 of this 2007 Act are added to and made a part of ORS 480.110**
17 **to 480.165.**

18 **SECTION 5. (1) A person may not store aerial display fireworks unless the person has a**
19 **permit issued under subsection (2) of this section.**

20 **(2) The State Fire Marshal may issue a permit to store aerial display fireworks to a**
21 **person that:**

22 **(a) Displays or sells aerial display fireworks at wholesale or that has a permit issued**
23 **under ORS 480.130;**

24 **(b) Does not manufacture fireworks or sell fireworks at retail; and**

25 **(c) Demonstrates that the person:**

26 **(A) Will comply with all federal, state and local laws relating to the storage of fireworks,**
27 **including but not limited to local fire codes;**

28 **(B) Has paid any fees assessed by the local government, as defined in ORS 174.116, for**
29 **inspection of the facility and training of emergency service workers, as defined in ORS**
30 **401.025, in the risks associated with the combustion and storage of fireworks;**

31 **(C) Has provided notice of the fireworks that the person will store in the facility to the**
32 **following:**

33 **(i) Every emergency service agency, as defined in ORS 401.025, that is within 10 miles of**
34 **the storage facility;**

35 **(ii) Every entity that is within 10 miles of the storage facility and is authorized by an**
36 **emergency service agency to provide services during an emergency; and**

37 **(iii) All owners of real property within 10 miles of the storage facility; and**

38 **(D) Has paid the fees established under this section.**

39 **(3) The State Fire Marshal, subject to prior approval by the Oregon Department of Ad-**
40 **ministrative Services, shall establish, by rule, the fee for a permit for the storage of aerial**
41 **display fireworks. Prior to adopting the fee, the State Fire Marshal shall submit a report to**
42 **the Legislative Assembly or, if the Legislative Assembly is not convened in regular session,**
43 **to the Emergency Board. The fee shall be adjusted to finance the administrative expenses**
44 **incurred under this section and shall be within the budget authorized by the Legislative As-**
45 **sembly, as that budget may be modified by the Emergency Board. All fees collected shall be**

1 **deposited to the credit of the State Fire Marshal Fund.**

2 **(4) A permit issued under this section for the storage of aerial display fireworks is valid**
3 **for not more than one year from the date of issue.**

4 **(5) This section does not apply to an aerial fireworks display business that has been in**
5 **continuous operation at its current location within an exclusive farm use zone since De-**
6 **cember 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.**

7 **SECTION 6. (1) The State Fire Marshal may adopt reasonable rules for issuing permits**
8 **for the storage of aerial display fireworks. The governing body of a city or a county may**
9 **require liability insurance, an irrevocable letter of credit issued by an insured institution as**
10 **defined in ORS 706.008 or other form of indemnity deemed adequate by the city or the county**
11 **from an applicant for the permit, conditioned for payment of all damages that may be caused**
12 **either to a person or property by reason of the storage of fireworks and arising from any**
13 **acts of any person or agents, employees or subcontractors of the person.**

14 **(2) The State Fire Marshal or the approving authority of any governmental subdivision**
15 **may revoke a permit for the storage of aerial display fireworks when, in the opinion of the**
16 **State Fire Marshal or the approving authority, the storage of aerial display fireworks is not**
17 **in compliance with applicable statutes and regulations governing the storage of fireworks.**

18 **(3) At the time a permit is revoked, the State Fire Marshal or approving authority may**
19 **include in the revocation order a provision prohibiting the holder of the revoked permit from**
20 **applying for or obtaining another permit, for a period not to exceed three years from the**
21 **revocation date, if the State Fire Marshal or approving authority finds that the circum-**
22 **stances of the permit holder's failure to comply with applicable statutes and regulations**
23 **presented a significant fire hazard or other public safety danger.**

24 **(4) The permit fee required under section 5 of this 2007 Act may not be refunded in the**
25 **event the permit is revoked.**

26 **SECTION 7. ORS 480.160 is amended to read:**

27 **480.160. (1) Nothing in ORS 480.110 to 480.165, nor in any permit issued thereunder, shall au-**
28 **thorize the manufacture, **storage**, sale, use or discharge of fireworks or items described in ORS**
29 **480.127 in any city, county or fire protection district in which such manufacture, **storage**, sale, use**
30 **or discharge is otherwise prohibited by law or municipal ordinance; nor shall any city, county or fire**
31 **protection district authorize the **storage**, sale or use of any fireworks prohibited by the provisions**
32 **of ORS 480.110 to 480.165.**

33 **(2) For the purposes of enforcing ORS 480.110 to 480.165 in an area exempt under ORS 476.030**
34 **(3) within a rural fire protection district, the fire marshal, if there is one, or the fire chief of that**
35 **rural fire protection district has the same enforcement authority as the State Fire Marshal.**

36 **(3) No person shall deliver or cause to be delivered into any county, municipality or rural fire**
37 **protection district for the purpose of sale to individual members of the general public for personal**
38 **use any items described in ORS 480.127 if the county, municipality or rural fire protection district**
39 **by law or ordinance has declared that the sale or use of such items is prohibited.**

40 **(4) The manufacture, **storage**, sale, use or discharge of fireworks or items described in ORS**
41 **480.127 may be regulated by the governing body of a rural fire protection district, subject to the**
42 **following conditions:**

43 **(a) The regulation must be by ordinance adopted by the governing body of the district, after**
44 **public notice and hearing, not later than January 1 of any calendar year in which regulation is to**
45 **be operative.**

1 (b) The regulation shall not be operative within the boundaries of any city that regulates such
2 matters by city ordinance.

3 (c) The regulation shall not prohibit the manufacture, **storage**, sale, use or discharge of fire-
4 works or items referred to in ORS 480.127, the manufacture, **storage**, sale, use or discharge of which
5 is authorized by ORS 480.110 to 480.165.

6 (d) The regulation may not limit sales to less than five days per calendar year, and must include
7 the five consecutive day period beginning June 30.

8 **(5) This section does not apply to the storage of fireworks by an aerial fireworks display**
9 **business that has been in continuous operation at its current location within an exclusive**
10 **farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide**
11 **fireworks.**

12 **SECTION 8. Sections 5 and 6 of this 2007 Act and the amendments to ORS 215.263 and**
13 **460.160 by sections 3 and 7 of this 2007 Act do not apply to land uses permitted under ORS**
14 **215.213 (2)(w) and 215.283 (2)(y).**

15 _____