

Senate Bill 1051

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 **as introduced**.

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.

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

30 (h) Operations for the exploration for and production of geothermal resources as defined by ORS
31 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of

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 compressors, separators and other customary production equipment for an individual well adjacent
2 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
3 an exception under ORS 197.732 (1)(a) or (b).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (C) Has interior wiring for interior lights;

41 (D) Has a heating system; and

42 (E) In the case of replacement:

43 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
44 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
45 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable

1 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
2 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
3 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
4 deed records for the county where the property is located a deed restriction prohibiting the siting
5 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless
6 a statement of release is placed in the deed records for the county. The release shall be signed by
7 the county or its designee and state that the provisions of this paragraph regarding replacement
8 dwellings have changed to allow the siting of another dwelling. The county planning director or the
9 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
10 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
11 and release statements filed under this paragraph; and

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

20 (u) Farm stands if:

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

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

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

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

41 (x) A facility for the processing of farm crops located on a farm operation that provides at least
42 one-quarter of the farm crops processed at the facility. The building established for the processing
43 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
44 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
45 activities within another building supporting farm uses. A processing facility shall comply with all

1 applicable siting standards but the standards shall not be applied in a manner that prohibits the
2 siting of the processing facility.

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

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

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

9 (A) A public right of way;

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

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

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

19 (2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition),
20 the following uses may be established in any area zoned for exclusive farm use subject to ORS
21 215.296:

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

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

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

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

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

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

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

40 (d) Operations conducted for:

41 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
42 as defined by ORS 520.005, not otherwise permitted under subsection (1)(h) of this section;

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

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

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

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

15 (f) Golf courses.

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

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

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

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

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

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

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

- 1 (n) Home occupations as provided in ORS 215.448.
- 2 (o) Transmission towers over 200 feet in height.
- 3 (p) Construction of additional passing and travel lanes requiring the acquisition of right of way
- 4 but not resulting in the creation of new land parcels.
- 5 (q) Reconstruction or modification of public roads and highways involving the removal or dis-
- 6 placement of buildings but not resulting in the creation of new land parcels.
- 7 (r) Improvement of public road and highway related facilities such as maintenance yards, weigh
- 8 stations and rest areas, where additional property or right of way is required but not resulting in
- 9 the creation of new land parcels.
- 10 (s) A destination resort that is approved consistent with the requirements of any statewide
- 11 planning goal relating to the siting of a destination resort.
- 12 (t) Room and board arrangements for a maximum of five unrelated persons in existing resi-
- 13 dences.
- 14 (u) A living history museum related to resource based activities owned and operated by a gov-
- 15 ernmental agency or a local historical society, together with limited commercial activities and fa-
- 16 cilities that are directly related to the use and enjoyment of the museum and located within
- 17 authentic buildings of the depicted historic period or the museum administration building, if areas
- 18 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
- 19 the museum administration buildings and parking lot are located within one quarter mile of the
- 20 metropolitan urban growth boundary. As used in this paragraph:
- 21 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
- 22 culture of some specific historic period using authentic buildings, tools, equipment and people to
- 23 simulate past activities and events; and
- 24 (B) "Local historical society" means the local historical society, recognized as such by the
- 25 county governing body and organized under ORS chapter 65.
- 26 (v) Operations for the extraction and bottling of water.
- 27 (w) An aerial fireworks display business that has been in continuous operation at its current
- 28 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
- 29 permit to sell or provide fireworks.
- 30 **(x) A facility used for storing fireworks, as defined in ORS 480.110, that are for aerial**
- 31 **display, if:**
- 32 **(A) The lot or parcel on which the storage facility is situated is not high-value farmland,**
- 33 **as described in ORS 215.710.**
- 34 **(B) The primary use of the lot or parcel on which the storage facility is situated is not**
- 35 **the storage of fireworks.**
- 36 **(C) The storage facility does not contain:**
- 37 **(i) More than 400 square feet; or**
- 38 **(ii) An explosive, as defined in ORS 480.200.**
- 39 **(D) The storage facility complies with:**
- 40 **(i) The state building code, as defined in ORS 455.010;**
- 41 **(ii) Ordinances, rules or regulations of a municipality adopted pursuant to ORS 455.040;**
- 42 **and**
- 43 **(iii) Administrative rules adopted by the State Fire Marshal pursuant to ORS 480.150 and**
- 44 **section 6 of this 2007 Act.**
- 45 **(E) The person storing the aerial display fireworks holds the permits required by federal,**

1 **state and local governments for the storage of fireworks, including but not limited to the**
2 **permit required by section 5 of this 2007 Act.**

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

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

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

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

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

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

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

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

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

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

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

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

39 (6) The notice required in subsection (5) of this section shall specify that persons have 15 days
40 following the date of postmark of the notice to file a written objection on the grounds only that the
41 dwelling or activities associated with it would force a significant change in or significantly increase
42 the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is re-
43 ceived, the governing body or its designee shall approve or disapprove the application. If an ob-
44 jection is received, the governing body shall set the matter for hearing in the manner prescribed in
45 ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required

1 by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of
2 this section.

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

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

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

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

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

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

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

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

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

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

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

26 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

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

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

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

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

34 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
35 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
36 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
37 operator does or will require the assistance of the relative in the management of the farm use and
38 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
39 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
40 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
41 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
42 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
43 shall operate as a partition of the homesite to create a new parcel.

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

1 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
2 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
3 compressors, separators and other customary production equipment for an individual well adjacent
4 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
5 an exception under ORS 197.732 (1)(a) or (b).

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

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

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

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

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

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

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

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

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

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

28 (r) Farm stands if:

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

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

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

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

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

42 (C) Has interior wiring for interior lights;

43 (D) Has a heating system; and

44 (E) In the case of replacement:

45 (i) Is removed, demolished or converted to an allowable nonresidential use within three months

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

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

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

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

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

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

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

43 (A) A public right of way;

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

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

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

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

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

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

15 (b) Operations conducted for:

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

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

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

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

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

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

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

42 (f) Golf courses.

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

44 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
45 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-

1 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
2 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
3 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
4 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
5 granted through waiver action by the Oregon Department of Aviation in specific instances. A
6 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
7 ject to any applicable rules of the Oregon Department of Aviation.

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

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

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

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

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

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

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

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

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

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

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

45 (t) A destination resort that is approved consistent with the requirements of any statewide

1 planning goal relating to the siting of a destination resort.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 [(z)] **(aa)** A landscaping business, as defined in ORS 671.520, or a business providing landscape
41 architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the
42 growing and marketing of nursery stock on the land that constitutes farm use.

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

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

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

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

6 215.263. (1) Any proposed division of land included within an exclusive farm use zone resulting
7 in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the
8 governing body or its designee of the county in which the land is situated. The governing body of
9 a county by ordinance shall require such prior review and approval for such divisions of land within
10 exclusive farm use zones established within the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (i) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber;
 2 and
 3 (ii) Composed of at least 90 percent Class VI through VIII soils;
 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 (5) In eastern Oregon, as defined in ORS 321.805, the governing body of a county or its designee:
 12 (a) May approve a division of land in an exclusive farm use zone to create up to two new parcels
 13 smaller than the minimum size established under ORS 215.780, each to contain a dwelling not pro-
 14 vided in conjunction with farm use if:
 15 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);
 16 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
 17 created prior to July 1, 2001;
 18 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with
 19 the minimum size established under ORS 215.780;
 20 (D) The remainder of the original lot or parcel that does not contain the nonfarm dwellings
 21 complies with the minimum size established under ORS 215.780; and
 22 (E) The parcels for the nonfarm dwellings are generally unsuitable for the production of farm
 23 crops and livestock or merchantable tree species considering the terrain, adverse soil or land con-
 24 ditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be con-
 25 sidered unsuitable based solely on size or location if the parcel can reasonably be put to farm or
 26 forest use in conjunction with other land.
- 27 (b) May approve a division of land in an exclusive farm use zone to divide a lot or parcel into
 28 two parcels, each to contain one dwelling not provided in conjunction with farm use if:
 29 (A) The nonfarm dwellings have been approved under ORS 215.284 (7);
 30 (B) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully
 31 created prior to July 1, 2001;
 32 (C) The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or
 33 smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;
 34 (D) The parcels for the nonfarm dwellings are:
 35 (i) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber;
 36 and
 37 (ii) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90
 38 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage
 39 for grazing livestock. The Land Conservation and Development Commission, in cooperation with the
 40 State Department of Agriculture and other interested persons, may establish by rule objective cri-
 41 teria for identifying units of land that are not capable of producing adequate herbaceous forage for
 42 grazing livestock. In developing the criteria, the commission shall use the latest information from
 43 the United States Natural Resources Conservation Service and consider costs required to utilize
 44 grazing lands that differ in acreage and productivity level;
 45 (E) The parcels for the nonfarm dwellings do not have established water rights for irrigation;

1 and

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

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

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

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

12 (a) Any proposed division of a lot or parcel described in ORS 215.213 (1)(e) or (k), 215.283 (1)(e)
13 or (2)(L) or 215.284 (1); *or*

14 (b) A proposed division that separates a processing facility from the farm operation specified in
15 ORS 215.213 (1)(x) or 215.283 (1)(u).; **or**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (11) The governing body of a county or its designee may approve a division of land smaller than
42 the minimum lot or parcel size described in ORS 215.780 (1) and (2) in an exclusive farm use zone
43 provided:

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

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

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

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

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

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

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

14 **SECTION 5. (1) The State Fire Marshal may issue a permit to store aerial display fire-**
15 **works to a person that:**

16 (a) Displays or sells aerial display fireworks at wholesale or that has a permit issued
17 under ORS 480.130;

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

19 (c) Demonstrates that the person:

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

22 (B) Has paid any fees assessed by the local government, as defined in ORS 174.116, for
23 inspection of the facility and training of emergency service workers, as defined in ORS
24 401.025, in the risks associated with the combustion and storage of fireworks;

25 (C) Has provided notice of the fireworks that the person will store in the facility to the
26 following:

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

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

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

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

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

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

43 (4) This section does not apply to the storage of fireworks by an aerial fireworks display
44 business pursuant to ORS 215.213 (2)(w) or 215.283 (2)(y).

45 **SECTION 6. (1) The State Fire Marshal may adopt reasonable rules for issuing permits**

1 for the storage of aerial display fireworks. The governing body of a city or a county may
 2 require liability insurance, an irrevocable letter of credit issued by an insured institution as
 3 defined in ORS 706.008 or other form of indemnity deemed adequate by the city or the county
 4 from an applicant for the permit, conditioned for payment of all damages that may be caused
 5 either to a person or property by reason of the storage of fireworks and arising from any
 6 acts of any person or agents, employees or subcontractors of the person.

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

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

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

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

20 480.160. (1) Nothing in ORS 480.110 to 480.165, nor in any permit issued thereunder, shall au-
 21 thorize the manufacture, **storage**, sale, use or discharge of fireworks or items described in ORS
 22 480.127 in any city, county or fire protection district in which such manufacture, **storage**, sale, use
 23 or discharge is otherwise prohibited by law or municipal ordinance; nor shall any city, county or fire
 24 protection district authorize the **storage**, sale or use of any fireworks prohibited by the provisions
 25 of ORS 480.110 to 480.165.

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

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

33 (4) The manufacture, **storage**, sale, use or discharge of fireworks or items described in ORS
 34 480.127 may be regulated by the governing body of a rural fire protection district, subject to the
 35 following conditions:

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

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

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

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

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

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

8
