



**TALENT CITY COUNCIL
SPECIAL MEETING AGENDA
- HELD VIA ZOOM -
June 30, 2021 – 5:30 p.m.**

This meeting will be held electronically via Zoom. There are two ways join the meeting:

1. You can join the meeting with your computer or smart phone using the following link & passcode:

<https://us02web.zoom.us/j/88322060161?pwd=Z0RGRUxkTGJEeIFlckNmcUJ5Z3J4QT09>

Passcode: 106160

2. You can join the meeting by phone by dialing 1-669-900-6833 and using the following information:

Webinar ID: 883 2206 0161, Passcode: 106160

All Council meetings are digitally recorded and will be available on the City website: www.cityoftalent.org. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder at 541-535-1566, x1012. The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and/or meeting.

1. Call to Order / Roll Call

2. Meeting Accessibility

2.1 Opportunity to Interpret Meeting into Spanish / Oportunidad de interpretar la reunión al español

- Pregunta para el público: ¿Alguien necesitaría la reunión interpretada en español?
- Question for the public: Do any attendees need this meeting interpreted into Spanish?

3. Speakers Heard on Non-Agenda Items

Limited to 5 minutes or less per Mayoral discretion.

4. Unfinished Business

Speakers will be provided the opportunity to offer comments on action items after staff members have given their reports and, if there is an applicant, after the applicant has had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.

4.1 Ordinance 2021-969-O to Ban the Use of Fireworks in the City of Talent 02

5. Adjournment

Upcoming Council Meetings

July 7th, 2021 6:45 p.m.	City Council Regular Meeting
July 21st, 2021 6:45 p.m.	City Council Regular Meeting



City Council Agenda Report

Meeting Date:	June 30, 2021	Staff Contact:	Jamie McLeod-Skinner
Department:	Administration	E-Mail:	Jamie@cityoftalent.org
Staff Recommendation:	Approval	Estimated Time:	20 mins.

ISSUE BEFORE THE COUNCIL

Ordinance to ban the use and sale of fireworks within the City of Talent.

BACKGROUND

Proposal of an Emergency Ordinance to ban the use and sale of fireworks is before the Talent City Council at this Special Council meeting. This Special meeting has been called given the drought, dry conditions, and upcoming 4th of July festivities, which often involve the use of fireworks.

The City of Talent suffered greatly as a result of the 2020 Almeda wildfire. The prohibition of the use of fireworks in the City would reduce further fire risk. The National Fire Protection Association reported that 19,500 fires were started by fireworks in the United States in 2018. Three of every five fires started by fireworks between 2014 and 2018 were brush, grass, or forest fires. Fireworks also result in burns and bodily damage every year, often disproportionately impacting children.

During dry conditions and concerns for fire safety, it is common practice for municipalities to temporarily or permanently ban the use of fireworks within part or all of their jurisdictional boundaries. Some jurisdictions also ban the sale of fireworks within their jurisdictional boundaries.

For example, the City of Ashland prohibits the use of fireworks in city parks. Grants Pass prohibits the use of fireworks throughout the year in areas identified as wildfire hazard zones and allows fireworks to only be used July 4th between the hours of 6:00 pm and 11:00pm. Rogue River prohibits the use and sale of all fireworks within city limits. Several other cities in Oregon have established such ordinances in the past week in anticipation of the upcoming July 4th celebration.

Oregon State law provides a definition for “fireworks” under ORS 480.111, which is attached to this report.

Items to Consider for a Potential Ban on Fireworks

1. Temporary or permanent ban

- A temporary ban may establish prevention during certain periods, such as hot and dry hazardous conditions. The draft Ordinance proposes a permanent ban.

2. Throughout the city or only in a limited area

- Some cities have identified limited areas within their jurisdictions where they have deemed there to be a limited area of hazard. The draft Ordinance proposes a ban throughout the City of Talent given the City’s size and the potential risk of fire hazards throughout the City.

3. Ban only the use, only the sale, or the use and sale of fireworks

- The City Attorney has advised staff that establishing an immediate ban on the sale of fireworks may result in potential lawsuit if a disgruntled seller of fireworks loses substantial revenue from a newly established Ordinance. Staff recommends Council discussion with the City Attorney, who will be present at the meeting, on this issue. The draft Ordinance proposes a ban on the use of fireworks, effective immediately, and a ban on the sale of fireworks in the City, effective immediately. As fireworks are not currently being sold in the City of Talent, only in surrounding areas, staff concurs with the City Attorney but respectfully notes that the risk of such litigation is low given that no such vendors are currently present in the City.

4. Enforcement and penalties

- The city has existing processes, under Section 9.05.350 of the Talent Municipal Code (TMC), that establish penalties for noncompliance: “*Violation of a provision of this chapter is punishable by a fine not to exceed \$500.00. However, if a violation of a provision is identical to a state statute with a lesser penalty, punishment shall be limited to the lesser penalty prescribed in state law.*”
- The City of Rogue River prohibits the sale and use of fireworks, as defined in ORS 480.111, within the city limits (RRMC 8.05.100), which the following criteria for enforcement and penalties (RRMC 8.05.290): *A. Enforcement. The Rogue River police department is charged with the responsibilities and the authority for enforcing the provisions of this chapter. The police officer shall have the right to enter upon property at reasonable times to investigate or cause the removal of a nuisance including potentially dangerous animals, dangerous animals, reptiles, or amphibians. B. Penalties. A violation of a provision of this chapter, or an order issued under authority of this chapter, is punishable by a fine not less than \$50 and not to exceed \$1,000.*

Process: Council Ordinance versus Executive Order by Interim City Manager

At the June 23, 2021, Special Council meeting, it was suggested that the Interim City Manager issue an Executive Order banning the use of fireworks, as she did to help facilitate the establishment of emergency housing in the City, rather than having the City Council pass an Ordinance.

However, the City Attorney advised the City that the best route is for the City Council adopt an Ordinance. The rationale is that an Executive Order would be more difficult to enforce as anyone cited under an Executive Order could fight a citation by arguing that the Interim City Manager exceeded her authority under the TMC, given that the emergency declaration is due to the Almeda Fire and that while a fireworks ban is a common-sense action to take, establishing a ban on fireworks now does not address or remedy the issues that caused the Almeda fire last year. Also, an Executive Order could only be temporary, for the duration of the established emergency, and could not address long term concerns about the use or sale of fireworks in the City.

Staff scheduled this Special Meeting as quickly as possible once that recommendation was made and Council Members confirmed a quorum (majority) of Councilors for a public meeting.

Per the City Charter Section 32(2), the City may adopt an ordinance at a single meeting if the vote by the City Council to adopt an ordinance at a single meeting is a unanimous votes of all Council Members present, provided the ordinance is read in full and then by title.

Getting the Word Out Immediately If Ordinance Is Approved

If a ban on fireworks is unanimously approved by the City Council, following the appropriate procedures, then staff has prepared a plan to expedite the information being disseminated to the

public. The plan to announce the ordinance to the public includes: a media release to the media outlets, the City website, social media, and to the City's full noticing lists. Additionally, the City has rented two large message boards to inform residents of the ban so that word can spread immediately in preparation of the upcoming holiday weekend.

RELATED COUNCIL POLICIES

Public health and safety

POTENTIAL MOTIONS

I Move adoption of Ordinance 2021-696-O establishing a ban on the use of fireworks in the City of Talent, effectively immediately, and sale of fireworks in the City of Talent, effectively immediately.

(Note: for the Ordinance to be effective immediately, it must be read in full, and then by title, and approved unanimously by the City Council.)

ATTACHMENTS

- Draft Ordinance 2021-969-O Banning the Use and Sale of Fireworks
- Oregon Revised Statutes (ORS) 480.111 – Definition of Fireworks

4.1b

ORDINANCE NO. 2021-969-O

AN ORDINANCE PROHIBITING THE USE OF FIREWORKS WITHIN THE CITY LIMITS; PROHIBITING THE SALE OF FIREWORKS IN THE CITY; AND DECLARING AN EMERGENCY AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE

WHEREAS, Chapter II Section 4 of the City Charter of the City of Talent provides that the City has all powers that the constitutions, statutes, and common law of the United States and of the State of Oregon now or hereafter expressly or impliedly grant or allow the City; and

WHEREAS, Chapter VIII Section 33 of the City Charter of the City of Talent provides that an emergency may take effect as soon as adopted; and

WHEREAS, in September 2020, a third of the City was destroyed by an intensive wildfire, known as the Almeda Fire, making residents understandably fearful of threats of wildfire; and

WHEREAS, it is common practice for individuals to use fireworks to celebrate the 4th of July holiday, posing a potential fire hazard; and

WHEREAS, current weather conditions are making the city vulnerable to wildfire; and

WHEREAS, the City Council of the City of Talent has determined that, in order to protect and benefit the health, safety and welfare of residents of the City, it is necessary to adopt this Ordinance; and

WHEREAS, the City Council of the City of Talent has determined that an emergency exists, supporting this Ordinance taking effect upon adoption.

NOW, THEREFORE, THE CITY OF TALENT ORDAINS AS FOLLOWS:

SECTION 1. In addition to restrictions on the use of fireworks (as defined in ORS 480.111) under State law, the use, lighting, detonation or display of consumer and display fireworks is prohibited throughout the City of Talent, effective immediately.

SECTION 2. The sale of fireworks (as defined in ORS 480.111) is prohibited throughout the City of Talent, effective immediately.

SECTION 3. Emergency. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the City of Talent, and an emergency is hereby declared to exist and this ordinance shall take effect and be in full force and effect upon adoption by the City Council.

Duly enacted by the City Council in open session on June 30, 2021 by the following vote:

Ayes: Nays: Abstain: Absent:

Hector Flores, City Recorder and Custodian of City Records

4.1c

Oregon Revised Statutes (ORS)

EXPLOSIVES; FLAMMABLES; PRESSURE VESSELS; PROTECTION FROM FIRE

EXPLOSIVES GENERALLY

- 480.010 Labels for blasting powder and fuse
- 480.020 Prohibition against sale of bad powder
- 480.030 Fuse unfit for use and sale; prohibition of use
- 480.040 Sale, exchange or possession, when unlawful
- 480.050 Prohibition against intrastate transportation of explosives in passenger vehicle operated by common carrier; exception
- 480.060 Transportation of certain explosives prohibited
- 480.070 Fire bombs prohibited; exceptions
- 480.085 Requirement for removal of unused explosives from work area
- 480.095 Penalty and civil liability for violation of ORS 480.085

FIREWORKS

- 480.111 Definitions for ORS 480.111 to 480.165**
- 480.120 Sale, possession and use of fireworks prohibited; exceptions; enforcement**
- 480.123 Use for repelling birds or other animals; permit; rules
- 480.124 Use for control of predatory animals allowed
- 480.127 Permit for retail sale of consumer fireworks; fee; rules**
- 480.130 Permit for fireworks display; permit for wholesale sale of consumer fireworks; fee; rules**
- 480.140 Fireworks displays to be under supervision of police and fire department chiefs or county court**
- 480.150 Permits for fireworks sales or displays; rules; security**
- 480.152 Publication of advertisement for sale of unlawful fireworks prohibited**
- 480.154 Manufacturer or wholesaler required to maintain records of sale of fireworks; shipments to show permit number; confiscation
- 480.156 Sale of fireworks to out-of-state resident without valid license or permit prohibited; seller to ascertain license or permit requirements of other states; seller's records
- 480.158 Parents of minor liable for costs incurred in suppressing fires caused by use of fireworks by minor; exception**
- 480.160 Local regulation and effect of state law; local enforcement authority**
- 480.165 Civil penalty for fireworks law violations**

MANUFACTURE, SALE, POSSESSION AND TRANSFER OF EXPLOSIVES

480.200-290

PENALTIES

480.990

FIREWORKS

480.111 Definitions for ORS 480.111 to 480.165. As used in ORS 480.111 to 480.165:

- (1) "Cone fountain" means a cardboard or heavy paper cone that:
 - (a) Contains 50 grams or less of pyrotechnic composition;

(b) If mounted on a common base with other cones having less than one-half inch of separation, results, when measured in combination with all other cones on the base, in a total pyrotechnic composition of not more than 200 grams;

(c) If mounted on a common base with other cones having at least one-half inch of separation, results, when measured in combination with all other cones on the base, in a total pyrotechnic composition of not more than 500 grams; and

(d) Upon ignition has the same effect as a cylindrical fountain.

(2) "Consumer fireworks" means:

(a) A cone fountain, a cylindrical fountain, a flitter sparkler, a ground spinner, an illuminating torch or a wheel, or a combination of two or more of those items; and

(b) Any other items, other than exempt fireworks, containing 500 grams or less of pyrotechnic composition that the State Fire Marshal recognizes by rule to be suitable for retail sale to members of the general public for individual use.

(3) "Cylindrical fountain" means a cylindrical tube that:

(a) Contains 75 grams or less of pyrotechnic composition;

(b) If mounted on a common base with other tubes having less than one-half inch of separation, results, when measured in combination with all other tubes on the base, in a total pyrotechnic composition of not more than 200 grams;

(c) If mounted on a common base with other tubes having at least one-half inch of separation, results, when measured in combination with all other tubes on the base, in a total pyrotechnic composition of not more than 500 grams;

(d) Upon ignition produces a shower of colored sparks and may produce a whistling effect; and

(e) Is provided with a means for restraining the behavior of the item, such as a spike for insertion into the ground, a wood or plastic base for placing on the ground or, if designed to be handheld, a wood or cardboard handle.

(4) "Display fireworks" means pyrotechnic devices that:

(a) Are designed for travel into the air or to project effects from a fixed position; and

(b)(A) Are classified by the United States Department of Transportation as Division 1.3 compatibility group G explosives or Division 1.4 compatibility group G explosives; or

(B) Contain more than 500 grams of pyrotechnic composition and are classified by the United States Department of Transportation as Division 1.4 compatibility group E or S explosives.

(5) "Exempt fireworks" means the following:

(a) Paper caps containing 0.25 grains or less of explosive mixture and toy guns, canes or other devices designed for firing those caps.

(b) Snakes or similar smoke-producing items containing 100 grains or less of combustible substances.

(c) Model rockets and model rocket motors that are used to propel recoverable models of rocket.

(d) Novelties and trick noisemakers.

(e) Emergency signaling devices, if used in railroad, boat, motor vehicle or other means of transportation for warning or illumination purposes.

(f) Blank cartridges of a type used:

(A) For theater or other shows;

(B) For signaling or ceremonial purposes in athletics or sports; or

(C) By the militia, an organization of war veterans or other organizations, if parading an armed color guard.

(g) Cartridges, shells or gunpowder for use in legally permitted types of firearms.

(h) Military pyrotechnic and signaling devices classified by the United States Department of Transportation as Division 1.4 compatibility group S explosives that are assigned to and in the

possession of the Armed Forces of the United States, or an authorized agent of the armed forces, as inventory for use by the armed forces or agent in training active members of the armed forces in their duties.

(i) Other items that in the judgment of the State Fire Marshal do not require regulation or restrictions on sale.

(6) "Explosive mixture" means a substance arranged in a manner to allow burning in less than one second.

(7)(a) "Fireworks" means:

(A) Consumer fireworks;

(B) Display fireworks;

(C) Exempt fireworks;

(D) Pyrotechnic articles;

(E) Special effects; and

(F) Other pyrotechnic devices that:

(i) Are capable of producing audible, visual, mechanical or thermal effects through combustion, deflagration or detonation; and

(ii) Contain chemical elements and compounds that are capable of burning independently of atmospheric oxygen or contain flammable liquid mixtures or flammable gas mixtures.

(b) "Fireworks" does not mean a candle, flaming club, flaming baton or other device that is designed to keep the flame and thermal radiation in close proximity to the device.

(8) "Fireworks display" means an entertainment feature at which the public or a private group is allowed to view a display or discharge that uses or explodes display fireworks or pyrotechnic articles.

(9) "Flitter sparkler" means a narrow paper tube that:

(a) Contains five grams or less of pyrotechnic composition;

(b) Produces colored sparks upon ignition; and

(c) Is activated by igniting paper located at one end of the tube.

(10) "Ground spinner" means a small device similar to a wheel in design and effect that:

(a) Contains 20 grams or less of pyrotechnic composition;

(b) Vents from an orifice located on the side of the tube or elsewhere on the device; and

(c) When placed on the ground and ignited, spins rapidly and produces a shower of colored sparks.

(11) "Illuminating torch" means a cylindrical tube that:

(a) Contains 100 grams or less of pyrotechnic composition; and

(b) Is provided with a means for restraining the behavior of the item, such as a spike for insertion into the ground, a wood or plastic base for placing on the ground or, if designed to be handheld, a wood or cardboard handle.

(12) "Local government" has the meaning given that term in ORS 174.116.

(13)(a) "Manufacture" means to make, construct, fabricate or produce fireworks.

(b) "Manufacture" does not mean:

(A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or

(B) Actions taken within the scope of a certification for conducting fireworks displays or for a pyrotechnics operator.

(14) "Pyrotechnic articles" means devices that:

(a) Are designed for professional use;

(b) Are similar to consumer fireworks in chemical composition and construction;

(c) Contain 500 grams or less of pyrotechnic composition;

(d) Are not labeled as consumer fireworks; and

(e) Have identification numbers UN0431 or UN0432 in the United States Department of Transportation Hazardous Materials Table set forth in 49 C.F.R. 172.101 or an amendment or replacement of that identification standard recognized by the State Fire Marshal.

(15) "Pyrotechnic composition" means a mixture that is:

(a) Composed of a metal powder having a high combustion temperature and an oxidant;
and

(b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.

(16) "Pyrotechnic device" means consumer fireworks, display fireworks, pyrotechnic articles, special effects and bird and animal control devices, and other combinations or compositions of materials, that produce audible, visual, mechanical or thermal effects.

(17) "Special effects" means articles containing pyrotechnic composition that, subject to authorization from the appropriate jurisdiction, are:

(a) Manufactured, assembled, designed or discharged in connection with television, theater or motion picture productions, concerts or conference centers; or

(b) Used for commercial, industrial, educational, recreational or entertainment purposes.

(18) "Wheel" means a pyrotechnic device that:

(a) Is designed to be attached to a post or tree by means of a nail or string;

(b) Has one or more driver units or tubes, each containing not more than 60 grams of pyrotechnic composition;

(c) Contains a total of not more than 200 grams of pyrotechnic composition; and

(d) Upon ignition revolves and produces a shower of colored sparks and may produce a whistling effect. [2013 c.24 §2]

480.120 Sale, possession and use of fireworks prohibited; exceptions; enforcement. (1) No person shall sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within Oregon, except as follows:

(a) Sales by manufacturers and wholesalers to customers residing outside this state in accordance with ORS 480.156;

(b) Sales to persons or organizations having obtained a permit from the State Fire Marshal for supervised public display;

(c) Sales to railroads, boats, motor vehicle or other transportation agencies, to be used for signal, warning or illumination purposes in connection with such business;

(d) Sale or use of blank cartridges for licensed shows or theaters or for signal or ceremonial purposes in athletics or sports;

(e) Experimental purposes by a manufacturer of explosives at such places where such experiments are normally conducted;

(f) Sale of blank cartridges for use by the militia or any organization of war veterans or other organization authorized by law to parade in public a color guard armed with firearms;

(g) Sale of shells, cartridges, gunpowder or explosives for use in legally permitted firearms;

(h) Sales of items described in ORS 480.127 to persons who possess the retail sales permit required by ORS 480.127 by a person who holds a manufacturer or wholesaler license issued pursuant to ORS 480.111 to 480.165; or

(i) Sales of items described in ORS 480.127 to individual members of the general public for personal use by taking direct delivery of those items at the time of sale from the holder of a retail sale permit issued pursuant to ORS 480.127.

(2) Law enforcement officers of the state, county or municipality shall enforce the provisions of ORS 480.111 to 480.165. [Amended by 1983 c.788 §1; 1985 c.789 §1]

480.127 Permit for retail sale of consumer fireworks; fee; rules. (1) Any person who desires to sell consumer fireworks at retail to individual members of the general public for personal use shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the proposed sale and that the proposed sale will conform to the provisions of ORS 480.111 to 480.165 and any rules adopted

under ORS 480.111 to 480.165. A fee may be charged for the permit. Subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, the amount of the fee shall be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2) A retail sales permit issued under this section authorizes the sale of consumer fireworks only in the year for which the permit is issued during the period that begins on June 23 and ends on July 6 of the year for which the permit is issued.

(3) A retail sales permit holder shall store consumer fireworks in accordance with any fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks. The matters that the State Fire Marshal considers when adopting storage rules for fireworks may include, but are not limited to, any United States Department of Transportation requirements relating to hazardous materials storage. [1983 c.788 §3; 1991 c.703 §14; 2013 c.24 §3]

480.130 Permit for fireworks display; permit for wholesale sale of consumer fireworks; fee; rules. (1) All persons, municipalities, associations or organizations or groups of individuals desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell consumer fireworks to persons who possess the permit referred to in ORS 480.127, shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale or date of the display. The State Fire Marshal, upon receipt of such application, shall determine if the proposed sale or display will conform to law and any rules promulgated thereunder. If the State Fire Marshal finds that the applicant is qualified to conduct such sale or display and that the proposed sale or display is in accordance with the law and all rules, the State Fire Marshal shall issue a permit; otherwise the State Fire Marshal shall refuse to issue it.

(2) The fee for a permit for the public display of fireworks and each permit for the sale of any fireworks shall be established by rule by the State Fire Marshal, subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, and subsequently shall be adjusted to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. All fees collected shall be deposited to the credit of the State Fire Marshal Fund.

(3) Sales permits for fireworks are not valid for more than one year from date of issue. A public display permit is not valid for more than 10 days from date of issuance and may authorize only one fireworks display during that period. [Amended by 1967 c.417 §24; 1983 c.788 §6; 1985 c.789 §2; 1991 c.703 §15; 2013 c.24 §4]

480.140 Fireworks displays to be under supervision of police and fire department chiefs or county court. (1) Every such display held within the boundaries of any municipality shall be under the supervision of the chiefs of police and fire departments of the municipalities in which the display is to be held and shall be of such character, and so located, discharged or fired as, in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or endanger any person.

(2) Every such display held outside the boundaries of any municipality or fire protection district shall be under the supervision of the county court of the county in which the display is to be held and shall be of such character, and so located, discharged or fired as, in the opinion of the county court or of a county official duly authorized by the county court, after proper inspection, shall not be hazardous to property or endanger any person.

480.150 Permits for fireworks sales or displays; rules; security. (1) The State Fire Marshal may adopt reasonable rules for granting permits for supervised public displays or sales

of fireworks by municipalities, fair associations, amusement parks, and other persons, organizations or groups of individuals. The governing body of any municipality, or of any county, may require liability insurance, or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or other form of indemnity deemed adequate by the municipality, or the county, from any person, in a sum not less than \$500, conditioned for payment of all damages which may be caused either to a person or property by reason of the authorized display or sale and arising from any acts of any person or agents, employees or subcontractors of the person. At the time a permit is revoked, the State Fire Marshal or approving authority may include in the revocation order a provision prohibiting the holder of the revoked permit from applying for or obtaining another such permit, for a period not to exceed three years from the revocation date, if the State Fire Marshal or approving authority finds that the circumstances of the permit holder's failure to comply with applicable sale or display statutes and regulations presented a significant fire hazard or other public safety danger.

(2) The State Fire Marshal or the approving authority of any governmental subdivision may revoke permits for display or sale of fireworks when in the opinion of the State Fire Marshal or the approving authority the sale or display of fireworks is not in compliance with applicable statutes and regulations governing such sale or displays.

(3) Permit fees required by ORS 480.130 shall not be refunded in the event such permits are revoked. [Amended by 1967 c.417 §25; 1983 c.788 §4; 1985 c.789 §3; 1991 c.331 §72; 1997 c.631 §483; 2013 c.24 §5]

480.152 Publication of advertisement for sale of unlawful fireworks prohibited. (1) No person shall publish or cause to be published:

(a) Any advertisement for the sale of fireworks the use or possession of which is declared unlawful by ORS 480.111 to 480.165.

(b) Any advertisement for the sale of fireworks in any county, municipality or fire protection district that by law or ordinance has declared the sale or use of the fireworks is prohibited.

(2) Subsection (1) of this section does not apply to any advertising medium that accepts such advertising in good faith, without knowledge of the violation of law. [1985 c.789 §7; 2013 c.24 §6]

480.158 Parents of minor liable for costs incurred in suppressing fires caused by use of fireworks by minor; exception. (1) In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for costs incurred by a public fire agency in suppressing fires caused by use of fireworks by such minor child. However, a parent who is not entitled to legal custody of the minor child at the time of the fire shall not be liable for such damages.

(2) The legal obligation of the parent or parents of an unemancipated minor child to pay damages under this section shall be limited to not more than \$5,000 payable to the same claimant, for one or more acts.

(3) When an action is brought under this section on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

(4) Nothing in subsections (1) to (3) of this section applies to foster parents. [1985 c.789 §6]

480.160 Local regulation and effect of state law; local enforcement authority. (1) Nothing in ORS 480.111 to 480.165, nor in any permit issued thereunder, shall authorize the manufacture, sale, use or discharge of fireworks in any city, county or fire protection district in which such manufacture, sale, use or discharge is otherwise prohibited by law or municipal

ordinance; nor shall any city, county or fire protection district authorize the sale or use of any fireworks prohibited by the provisions of ORS 480.111 to 480.165.

(2) For the purposes of enforcing ORS 480.111 to 480.165 in an area exempt under ORS 476.030 (3) within a rural fire protection district, the fire marshal, if there is one, or the fire chief of that rural fire protection district has the same enforcement authority as the State Fire Marshal.

(3) No person shall deliver or cause to be delivered into any county, municipality or rural fire protection district for the purpose of sale to individual members of the general public for personal use any consumer fireworks if the county, municipality or rural fire protection district by law or ordinance has declared that the sale or use of the consumer fireworks is prohibited.

(4) The manufacture, sale, use or discharge of fireworks may be regulated by the governing body of a rural fire protection district, subject to the following conditions:

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

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

(c) The regulation shall not prohibit the manufacture, sale, use or discharge of fireworks the manufacture, sale, use or discharge of which is authorized by ORS 480.111 to 480.165.

(d) The regulation may not limit sales to less than five days per calendar year, and must include the five consecutive day period beginning June 30. [Amended by 1983 c.788 §7; 1985 c.789 §4; 1993 c.185 §32; 2013 c.24 §9]

480.165 Civil penalty for fireworks law violations. (1) In addition to any other penalty provided by law, any person who violates any provision of ORS 480.111 to 480.165, or any rule adopted by the State Fire Marshal pursuant thereto, is subject to a civil penalty imposed by the State Fire Marshal in an amount not to exceed \$500 per violation. However, an individual member of the general public who possesses fireworks of a retail value less than \$50 is not subject to a civil penalty. Each day a violation continues shall be considered a separate offense.

(2) All moneys recovered pursuant to this section shall be paid into the State Fire Marshal Fund.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1991 c.856 §§2,3]