

ORDINANCE NO. \_\_\_\_\_

**GRANTING AN EXEMPTION TO THE APPLICATION OF SECTION 6.200 OF THE EUGENE CODE, 1971.**

**The City Council of the City of Eugene finds as follows:**

**A.** Section 6.200 of the Eugene Code, 1971, (EC), proscribes the practice of open burning within the City of Eugene with specified exceptions to this ban. This ordinance is a component of local measures designed to assure compliance with federal ambient air quality standards.

**B.** Maintenance and enhancement of air quality is critical to the health and welfare of metropolitan area residents, the area's ability to attract new businesses, and the avoidance of sanctions for noncompliance.

**C.** The West Eugene Wetlands Plan (the Plan) was adopted by the City Council on May 20, 1992, by Ordinance No. 19853 as a refinement to the Metro Plan. The Plan was amended by the City Council by Ordinance Nos. 19867, 20002, 20119, 20126, 20147, 20171, 20200, 20201, 20208, and 20259 during the years 1992 to 2002. The Plan sets forth policies for preserving significant wetlands in West Eugene, allowing development of lower quality wetlands, and establishing a system for mitigation of filled wetlands. The Plan also includes goals and policies for protecting and expanding populations and habitats of rare, threatened or endangered plants, including Bradshaw's lomatium (*Lomatium bradshawii*), Willamette Valley daisy (*Erigeron decumbens var. decumbens*), and white-topped aster (*Aster curtus*), and policies for protecting and managing the native Willamette Valley wet prairie plant community. In addition, the Plan contains policies for managing the preserved wetlands in public ownership.

**D.** Experimental burns conducted in 1986, 1987, and 1991 in the Willow Creek natural area within wetland habitat containing the above-mentioned plant species have resulted in expansion of populations of those plants in the areas burned. Controlled burns in 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, and 2015 on several sites have also been beneficial for managing wetland habitat and maintaining and improving wet prairie habitat.

**E.** Management of these wetlands and preservation of native plant species and native plant communities requires controlled open burning of vegetation for scientific purposes and to foster growth of wetlands species in the areas noted on the map attached as Exhibit A hereto and incorporated herein by reference. This burning of vegetation in these areas will help restore them to their historical condition and replicate the indigenous environment for the plants.

**F.** Some wetland sites owned by the City, Bureau of Land Management, and The Nature Conservancy that are currently outside of the Eugene City limits and/or the urban growth boundary also need controlled open burning for the purpose of managing wet prairie habitat and protecting rare plant species. Some of these areas may be annexed to the City within the period from 2016 to 2020.

**G.** A limited and special exception to the open burning ban in EC 6.200 is necessary for the purposes outlined above. This limited exception is based upon the high costs and limited practicability of alternative vegetation management and control methods, the limited nature of the expected burns, air pollution control strategies that will be employed to prevent significant degradation of air quality, the special recognition given to this area and habitat in the comprehensive planning documents, the City's direct responsibility under those plans for preservation of the natural resources in this area, and the general public benefit derived from the preservation of this habitat. This limited exception is unique and should not serve as precedent for future exceptions for other purposes or signal any relaxation of the City's commitment to preservation of air quality.

**H.** Exceptions to the open burning ban for the management of wetlands in the West Eugene Wetlands Plan area have been previously granted by the City Council by Ordinance No. 19403 enacted August 13, 1986, Ordinance No. 19493 enacted July 27, 1987, Ordinance No. 19634 enacted September 11, 1989, Ordinance No. 19715 enacted September 12, 1990, Ordinance No. 19983 enacted September 12, 1994, Ordinance No. 20014 enacted May 22, 1995, Ordinance No. 20231 enacted June 25, 2001, Ordinance No. 20370 enacted June 26, 2006, and Ordinance 20476 effective July 16, 2011. An exception is again necessary to ensure the continued proper and effective management of this valuable natural resource area.

**NOW, THEREFORE,**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** The findings set forth above are adopted.

**Section 2.** The City shall continue to use its outdoor burning ordinance as one method for maintaining and improving air quality of the metropolitan area.

**Section 3.** An exception to the application of EC 6.200 is given to the Bureau of Land Management, Eugene Public Works Department, and The Nature Conservancy to conduct periodic "wetland management" controlled open burning of vegetation for scientific purposes and to foster growth of wetlands plant species in the areas noted on the map attached as Exhibit A hereto and incorporated herein by reference, providing the following conditions are met:

- a. Prior to commencement of any burn, the Bureau of Land Management, Eugene Public Works Department, or The Nature Conservancy shall give notice to the Eugene Fire Marshal and the Lane Regional Air Protection Agency and shall obtain the approval of those agencies to conduct the burn in the time, place, and manner proposed.
- b. No more than 250 acres of open burning shall be conducted within the City of Eugene in any one calendar year.
- c. Environmental protection and fire suppression strategies, personnel, and equipment (including wind direction, moisture regime, and firefighting equipment) shall be approved in advance by the Eugene Fire Marshal and Lane Regional Air Protection Agency. The Bureau of Land Management, Eugene Public Works Department, and The Nature Conservancy shall comply with all conditions

- imposed by those agencies.
- d. Burning shall only occur when wind and weather conditions are such that air quality impacts are minimized and safety can be maintained.
- e. Burns shall occur periodically only in the time period between the effective date of this Ordinance and December 31, 2020.
- f. The Bureau of Land Management, Eugene Public Works Department, and The Nature Conservancy assume responsibility for providing all equipment and personnel associated with the burn and for complying with all applicable federal, state and local laws.

**Section 4.** In the event the areas are annexed to the City prior to December 31, 2020, an exception to the application of EC 6.200 is given to the Bureau of Land Management, Eugene Public Works Department, and The Nature Conservancy to conduct periodic "wetland management" controlled open burning of vegetation for scientific purposes and to foster growth of wetlands plant species in any of the "Ecological Burn Site" areas shown on the map attached as Exhibit A hereto and incorporated herein by reference, following annexation of those sites to the City of Eugene, providing the following conditions are met:

- a. Prior to commencement of any burn, the Bureau of Land Management, Eugene Public Works Department or The Nature Conservancy shall give notice to the Eugene Fire Marshal and the Lane Regional Air Protection Agency and shall obtain the approval of those agencies to conduct the burn in the time, place and manner proposed.
- b. No more than 75 acres of open burning shall be conducted within any one calendar year.
- c. Environmental protection and fire suppression strategies, personnel and equipment (including wind direction, moisture regime, and firefighting equipment) shall be approved in advance by the Eugene Fire Marshal and Lane Regional Air Protection Agency. The Bureau of Land Management, Eugene Public Works Department, and The Nature Conservancy shall comply with all conditions imposed by those agencies.
- d. Burning shall only occur when wind and weather conditions are such that air quality impacts are minimized and safety can be maintained.
- e. Burns shall occur periodically only in the time period between the effective date of this Ordinance and December 31, 2020.
- f. The Bureau of Land Management, Eugene Public Works Department, and The Nature Conservancy assume responsibility for providing all equipment and personnel associated with the burn and for complying with all applicable federal, state and local laws.

**Passed by the City Council this**  
 \_\_\_\_\_ day of \_\_\_\_\_, 2016.  
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**Approved by the Mayor this**  
 \_\_\_\_\_ day of \_\_\_\_\_, 2016.  
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**City Recorder**

**Mayor**