

# EUGENE CITY COUNCIL

## AGENDA ITEM SUMMARY



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Action: A Special Ordinance Granting an Exemption to the Application of Section 6.200 of the Eugene Code, 1971 (Ordinance to Renew Five-Year Exception to Application for Controlled Ecological Burns)

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Meeting Date: June 13, 2011  
Department: Public Works  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 4  
Staff Contact: Trevor Taylor  
Contact Telephone Number: 541-682-4888

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### ISSUE STATEMENT

This is an opportunity for the council to take action on a proposed ordinance that would provide an exception to the application of Eugene Code 6.200 (open burning) for ecological burning by the U.S. Bureau of Land Management (BLM), The Nature Conservancy (TNC), and the City of Eugene for wetland vegetation protection, management, and restoration for a period of five years.

### BACKGROUND

#### Council Action History

In 1986 and 1987, the City Council approved exceptions to Eugene Code 6.200 to permit The Nature Conservancy to conduct prescribed burns in the Willow Creek Natural Area. Due to the recurring nature of these requests, in September 1990, the City Council approved a five-year exception for the Willow Creek Natural Area by Ordinance No. 19715. In May 1995, the council approved a second five-year exception for several sites within the West Eugene Wetlands Plan area by Ordinance No. 20014. In June 2001, the council approved a third five-year exception for several sites within the West Eugene Wetlands Plan area by Ordinance No. 20231. Then again, in June 2006, the council approved another five-year exception to the code by Ordinance No. 20370.

The purpose of these controlled ecological burns is to maintain native prairie vegetation and to control invasive vegetation in the native prairie sites. To date, The Nature Conservancy has conducted burns in 1986, 1987, 1991, 1994, 1996, 1997, 1998, 1999, 2001, 2005, 2007, 2008, and 2009 within the area covered by the exceptions. In addition, controlled burns were conducted on Bureau of Land Management (BLM) lands in 1996, 1998, 2000, 2005, and 2009, and on City of Eugene land in 2002, 2007, and 2008, within the area covered by the exceptions.

The council held a public hearing on this new, proposed ordinance on May 16, 2011. No oral or written testimony was received.

#### Policy Issues

The two primary policy areas are (1) maintaining and improving air quality in the Metro Area and (2) protecting, maintaining and managing wetlands designated for restoration and protection in the West Eugene Wetlands Plan and the associated rare plant and animal species. A key policy issue is the

proposed expansion of areas allowed to be burned, and any potential air quality impacts or community perceptions of potential problems from these prescribed burns, contrasted with past City efforts to curtail commercial grass seed field burning in the southern Willamette Valley. The City lobbied to exempt ecological burns from state regulations curtailing commercial grass seed field burning for the purposes of improving habitat and providing fire fighting training opportunities. Both of these goals are met in this ordinance.

### **Other Background Information**

See attached memorandum dated April 29, 2011.

### **Timing**

The appropriate season for conducting controlled burns for wetland vegetation management is late summer and early fall. Since the previously approved exception to the open burning ordinance expired on December 31, 2010, no controlled ecological burning can be conducted within city limits until this exception is approved. Therefore, staff recommends immediate action on the ordinance, so that it will become effective prior to the upcoming burning season.

### **COUNCIL OPTIONS**

The council may:

1. Approve the proposed ordinance.
2. Modify the proposed ordinance.
3. Delay action until a later date.
4. Choose to take no further action on this item.

### **CITY MANAGER'S RECOMMENDATION**

The City Manager recommends approval of the ordinance as proposed.

### **SUGGESTED MOTION**

I move to adopt Council Bill 5049, a special ordinance granting an exception to the application of Eugene Code, 1971, Section 6.200, for prescribed wetland management burning.

### **ATTACHMENTS**

- A. Proposed ordinance
- B. Exhibit A: map of potential burn sites within current city limits and outside of city limits but within urban growth boundary
- C. Copy of Eugene Code 6.200 Outdoor Burning

### **FOR MORE INFORMATION**

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

**A SPECIAL ORDINANCE 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 Eugene-Springfield Metropolitan Area General Plan (the Metro Plan) adopted and acknowledged in 1982, identifies the West Eugene Industrial Area as a major growth area for the City.

**D.** 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-top 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.

**E.** 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 and 2010 on several sites have also been beneficial for managing wetland habitat and maintaining and improving wet prairie habitat.

**F.** 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.

**G.** 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 2011 to 2015.

**H.** 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.

**I.** 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, and Ordinance No. 20370 enacted June 26, 2006. 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 any one calendar year.
- c. Environmental protection and fire suppression strategies, personnel, and equipment (including wind direction, moisture regime, and fire fighting 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, 2015.
- 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, 2015, 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 fire fighting 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, 2015.
- 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.

laws.

**Passed by the City Council this**

**13<sup>th</sup> day of June 2011.**

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**City Recorder**

**Approved by the Mayor this**

**\_\_\_\_\_ day of June 2011.**

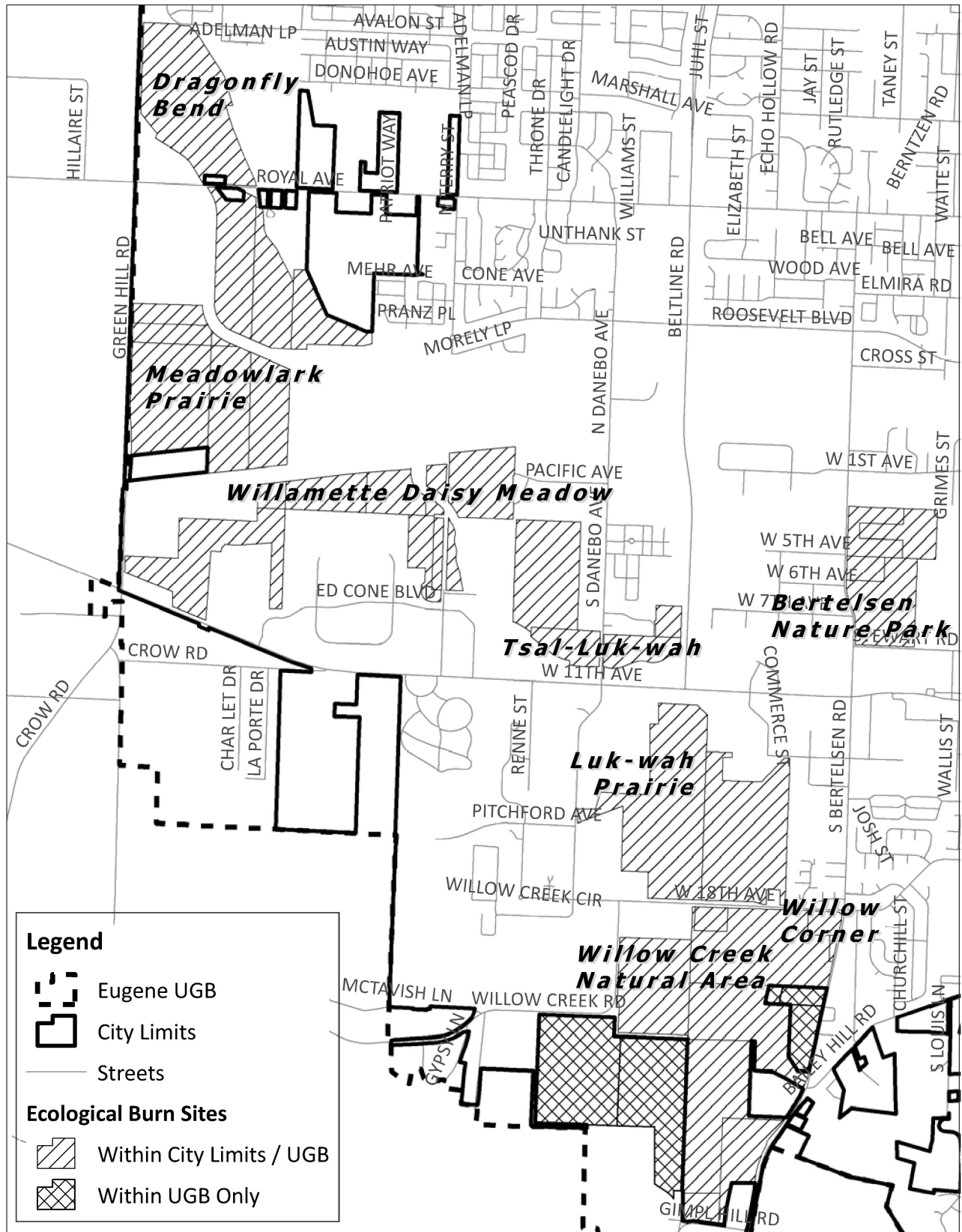
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**Mayor**

# Exhibit A

Ecological Burn Sites - 2011-2015

Within City Limits and/or Urban Growth Boundary (UGB)



NOTE:  
In most cases the actual area burned will be smaller than the area indicated.



March 30, 2011

## **6.200 Outdoor Burning.**

- (1) No person shall kindle, maintain or allow to be maintained, an outdoor fire, bonfire, rubbish fire or garbage fire; nor shall any person kindle, maintain or allow to be maintained a fire for the purpose of burning grass, hay or straw, tree limbs and trimmings; nor shall any person maintain or allow to be maintained a fire for land clearing operations, or commercial burning; nor shall any person kindle, maintain or allow to be maintained any other type of open burning with the following exceptions:
  - (a) Outdoor recreation fire used for cooking with the fire in a fireplace, barbecue set, or an outdoor fire used for cooking only.
  - (b) Recreation fire in an approved campsite in fire pits provided.
  - (c) Fires set and maintained for fire fighting training or training fire protection personnel.
  - (d) In cases of fire hazard that cannot in the judgment of the fire marshal be removed or disposed of in any other practical manner, a fire may be allowed by written permit only. Said permit is to be issued by the fire marshal.
- (2) No person shall accumulate or suffer or allow to accumulate material which in the judgment of the fire marshal constitute a fire hazard. Any such accumulation is a nuisance and subject to abatement as provided in this Code.