

## **Sec. L-XVI 6.1 Findings and Purpose**

A. The State of California has designated the South Yuba River, from Lang Crossing to its confluence with Kentucky Creek below Bridgeport as a designated component of the California Wild and Scenic River System that contains extraordinary scenic, recreational, fishery, and wildlife values of statewide significance that deserve to be preserved in their free-flowing state for the benefit and enjoyment of the people of the state as provided in the California Wild and Scenic Rivers Act, pursuant to Public Resources Code section 5093.50 et seq.

B. In 2001, the Nevada County Board of Supervisors adopted Resolution 01-355 to join the Memorandum of Understanding (MOU) between the United States Department of Agriculture (USDA) Forest Service, Bureau of Land Management and the California Department of Parks and Recreation on the management of the South Yuba River to develop a comprehensive, coordinated management plan called the South Yuba River Comprehensive Management Plan to coordinate a cohesive management strategy to manage public land resources and uses with the planning area of the South Yuba River Wild and Scenic System designation.

C. The South Yuba River Wild and Scenic System designated corridor covers the lower 39-mile stretch of the South Yuba River from Lang Crossing to its confluence with Kentucky Creek below Bridgeport in Nevada County within a quarter mile from the ordinary high water mark on each side of the river (1,320 feet).

D. As stated in the South Yuba River Comprehensive Management Plan, the “South Yuba River corridor, with its local weather and steep topography, can produce wildfires with the potential to quickly and intensely spread across ownership boundaries and human-caused fires are the primary concern both in the corridor and in the watershed. Human-caused fires have created the most damage, per event, of all wildfires within the watershed. Lighting fires are of secondary concern.” (p. 24)

E. As further stated in the South Yuba River Comprehensive Management Plan, “Open campfires on public lands are not allowed anywhere within the corridor year round. Where camping is allowed, gas camp stoves are allowed unless fire restrictions are in effect. Fires are allowed only in agency-provided pedestal grills and fire rings in designated sites.” (p. 42)

F. As further stated in the South Yuba River Comprehensive Management Plan, “Land ownership in the South Yuba River corridor is a patchwork of private and public lands. As a result, visitors have the potential to pass through private lands when accessing and recreating on public lands within the corridor. Some property owners welcome visitors to share their land. Others prohibit public access. There are conflicts at times between the visiting public and private property owners. Private property has been misused and occasionally damaged by thoughtless (and sometimes malicious) recreation visitors.” (p. 27)

G. The Yuba River Public Safety Cohort, a multi-agency workgroup that includes federal, state and local public, fire and law enforcement agencies, as well as community private and nonprofit organizations and representatives, are in support of banning open fire on private property within the South Yuba River Wild and Scenic System designated corridor during fire season to mitigate severe high-fire risk from human-caused fires. The corridor contains thick dry brush and flammable vegetation along steep slopes as well as limited and/or restricted access of the topography and the potential for high wind, making it very difficult to fight fires in this area, due to the potential speed of a fire to spread.

H. Per Board Resolution 18-062, a Nevada County 2018 Priority Objective is to “Prioritize the implementation of existing County policies and programs to reduce the risk of wildfire and the effects of

wildfire on life, property and the environment. Pursue hazard vegetation mitigation funding sources and support related community partners with their efforts. Explore other ways to reduce the threat and damage from wildfires.”

I. For purposes of consistency of public policy, should the County of Nevada consider implementing a ban on open fire on private property during fire season, the South Yuba River Public Safety Cohort recommends using the boundaries of the South Yuba River Wild and Scenic designated corridor that covers the lower 39-mile stretch of the South Yuba River from Lang Crossing to its confluence with Kentucky Creek below Bridgeport in Nevada County within a quarter mile from the ordinary high water mark on each side of the river (1,320 feet) as the boundaries for a ban on open fire given the increased risk of human caused fire from the restricted access of the topography and potential for high wind events and dangers thereof.

J. Any ban on open fire on private property considered and/or implemented by the County of Nevada shall not be considered an action from the MOU Comprehensive Management Plan party between the County of Nevada, USDA Forest Service, Bureau of Land Management and the California Department of Parks and Recreation but rather shall be considered an action of the sole discretion of the County of Nevada with input and support from the South Yuba River Public Safety Cohort.

K. Given the concerns regarding the restrictions on private property rights, it is recommended that any ban on open fire on private property considered and/or implemented by the County of Nevada be implemented as a pilot program in order to gain public input and feedback following the 2018-2019 fire seasons for future fire restrictions and/or consideration of a permanent ordinance.

L. For purposes of consistency, upon the adoption of this ordinance, all outdoor burning regulations shall be located in the Land Use Development Code and any outdoor burning regulations shall be removed from the General Code.

M. Northern California is experiencing a destructive fire season and catastrophic wildfires have already resulted in massive structural damage and deaths. It is necessary to take immediate action to mitigate the hazards of human caused wildfire that would have devastating impacts on the watershed, the surrounding community and the County as a whole.

N. The proposed ordinance is an urgency measure, which if adopted by 4/5ths vote, will become effective immediately. Government Code section 25123(d) authorizes the Board to adopt an urgency ordinance “for the immediate preservation of the public peace, health, or safety.”

O. Per Board Resolution 20-041, a Nevada County 2020 Priority Objective is to “Reduce the loss of life during a wildfire by improving evacuation routes and early warning systems; creating more defensible space around private properties and driveways, building a network of maintained fuel breaks, engaging residents in emergency preparedness and fire-safe stewardship, and enhancing critical infrastructure.”

P. Given the concerns on the catastrophic impact that a wildfire within the South Yuba River Corridor would have on the watershed and surrounding area, as well as the restrictions on private property rights, it is recommended that a one-year extension prohibiting open fire on private property within the South Yuba River Wild and Scenic Corridor will provide an additional year to gain public input and feedback following the 2021 fire season for future fire restrictions and/or consideration of a permanent ordinance. (Ord. 2485, 12/15/20; Ord. 2472, 11/12/19; Ord. 2454, 9/11/18)

Q. Per Board Resolution 22-092, a Nevada County 2022 Priority Objective is to “Lead the community in all hazards planning, preparedness, response, and recovery with a focus on wildfire. Do this by focusing on improving countywide evacuation routes and safety, continuing to strengthen early alert and critical communication systems, partnering closely with residents in emergency preparedness, defensible space, home hardening, green waste disposal and fire-safe land stewardship.”

R. Given the concerns on the catastrophic impact that a wildfire within the South Yuba River Corridor can have on the watershed and surrounding area, as seen during the Jones Fire in 2020 that burned 705 acres, destroyed 21 structures, injured 7 people, resulted in evacuation of thousands of people and directly threatened the cities of Nevada City and the City of Grass Valley between August 17<sup>th</sup> to 28<sup>th</sup>, it is recommended that a prohibition of open fire on private property within the South Yuba River Wild and Scenic Corridor be extended.

S. And given the major risks of wildfire due to human causes that can result in catastrophic impact on wildfire and surrounding area, as seen in the River Fire in 2021 that burned 2,619 acres, destroyed 142 structures, injured 4 people, and resulted in the evacuation of thousands of people between August 4<sup>th</sup> to 13<sup>th</sup> within both Placer County and Nevada County, it is recommended that a prohibition of open fire on private property within the South Yuba River Wild and Scenic Corridor be extended in perpetuity on an annual basis.

T. And given the impacts due to the restrictions on private property rights, it is noted that the Board of Supervisors retains the right to review, amend or repeal its permanent ordinance at its sole discretion at any time within applicable law.

#### **Sec. L-XVI 6.2 South Yuba River Corridor Burn Prohibitions**

A. This prohibition is immediately from the start of declared fire restrictions (fire season) to the end of fire season as declared by the California Department of Forestry and Fire Protection (CAL FIRE) on an annual basis.

B. Every firm, person or corporation is prohibited from conducting any and all outdoor burning on private property within the portion of the South Yuba River corridor that covers the lower 39-mile stretch of the South Yuba River from Lang Crossing to its confluence with Kentucky Creek below Bridgeport in Nevada County within a quarter mile from the ordinary high water mark on each side of the river (1,320 feet), as described and shown in Attachment A, attached hereto and incorporated herein by reference, with the following exceptions:

1. Wood and charcoal fires in permanent provided pedestal grills and fire rings in a designated developed recreation site (i.e. organized campground) in an area that is cleared of all non-structural flammable material in all directions at least ten (10) feet in diameter from the fire’s edge.

2. Wood, charcoal, gas, jellied petroleum or pressurized liquid fuel fires inside:

a. Enclosed stove, grill, barbecue or portable brazier that is located in a designated developed recreation site (i.e. organized campground) or improved parcel with readily available access to an emergency water supply system within 30 feet of the fire, that meets the general standards provided in Nevada County Title 3 Land Use and Development Code section L-XVI 4.3 and California Fire Code section 307-308, in an area that is cleared of all non-structural flammable material at least ten (10) feet, in all directions, from the fire’s edge with an occupying resident or owner present on the property.

b. A permanent fire ring or pit no larger than five (5) feet in diameter on an improved parcel that is located more than twenty-five (25) feet away from a combustible structure with readily available access to an emergency water supply system within 30 feet of the fire, that meets the general standards provided in Nevada County Title 3 Land Use and Development Code section L-XVI 4.3 and California Fire Code sections 307-308, in an area that is cleared of all non-structural flammable material in all directions at least ten (10) feet in diameter from the fire's edge, with an occupying resident or owner present on the property.

3. Smoking within an enclosed vehicle or building, or while stopped in an area that is cleared of all non-structural flammable material in all directions at least (5) five feet in diameter.

C. The foregoing shall not apply to any individual, firm or corporation who obtains a special permit from the U.S. Forest Service, Bureau of Land Management or California Department of Forestry which shall be necessary for the preservation of the public health, public safety or general welfare. This section shall apply to any and all outdoor burning of any kind, nature or description except campfires and cooking fires in designated allowable locations as outlined in Section II Subsection B above.

D. Persons who violate any provision of this Code or fail to comply with any of the requirements thereof shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1000.00) or imprisonment not exceeding 90 days in the County Jail, or both such fine and imprisonment.

E. This ordinance will remain in effect in perpetuity on an annual basis during fire season as declared by California Department of Forestry and Fire Protection (CAL FIRE).. (Ord. 2485, 12/15/20; Ord. 2472, 11/12/19; Ord. 2454, 9/11/18)