

## ***CHAPTER 5.48. STREAMS AND RIVERS COMMERCIAL BOATING***

### **Sec. 5.48.010. Title.**

This chapter shall be referred to as the Streams and Rivers Commercial Boating Ordinance.

(Code 1997, § 5.48.010; Ord. No. 4594, 1-15-2002)

### **Sec. 5.48.020. Purpose.**

The Board of Supervisors recognizes that recreational use of the County's streams and rivers includes the use of streams and rivers by rafts, kayaks, and other floating devices. The Board has further found it necessary to manage whitewater recreation, through the County's River Management Plan, to protect the riparian environment and the safety, health, and welfare of river users and riparian landowners. Consistent with the policies and purposes of the 2001 El Dorado County River Management Plan, as it may be amended from time to time, this chapter regulates commercial boating on County rivers and streams.

(Code 1997, § 5.48.020; Ord. No. 4594, 1-15-2002)

### **Sec. 5.48.030. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Boat rental* means the lease, rental, loan, or bailment for consideration of any floating device for use on any stream or river named in Section 5.48.040.

*Commercial outfitter* means any operation that meets any of the criteria specified in Subelement 6.1 of the 2001 El Dorado County River Management Plan, as it may be amended from time to time.

*Commercial river use* means any operation of a boat rental or commercial outfitter.

*Commercial river use permit* means a discretionary permit issued pursuant to this chapter that entitles the permittee to engage in commercial river use.

*County Parks* means the Parks Division of the Chief Administrative Office.

*Floating device* means any raft, kayak, canoe, inner tube, kickboard, water wheel, or similar object, or any "vessel" as defined by Harbors and Navigations Code § 21, as it may be amended from time to time. The term "floating device" expressly excludes U.S. Coast Guard approved personal flotation devices, Types 1 through 5.

(Code 1997, § 5.48.030; Ord. No. 4594, 1-15-2002)

### **Sec. 5.48.040. Permit required.**

No person or entity shall engage in commercial river use on the reaches of the South Fork of the American River between Chili Bar and Salmon Falls, except as authorized by a valid commercial river use permit in good standing.

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(Code 1997, § 5.48.040; Ord. No. 4594, 1-15-2002)

**Sec. 5.48.050. Permit issuance procedure.**

Commercial river use permits shall be issued by the Planning Commission. The procedure for permits is as follows:

- A. The applicant shall submit an application for a commercial river use permit, accompanied by a river use plan, and appropriate fee, to County Parks on or before an annual deadline set by County Parks.
- B. Within 60 days of the deadline for receipt of the application and river use plan, County Parks shall review them for compliance with the standards of this chapter and of the River Management Plan and submit a written report of its conclusions and recommendations to the Planning Commission. If County Parks concludes that an applicant's river use plan is not complete or does not meet the standards of Section 5.48.070, it shall recommend that the application be denied.
- C. Upon receipt of the report from County Parks, the matter shall be placed on the agenda of the next available meeting of the Planning Commission. The Planning Commission shall approve the permit upon a finding that the application and plan meet all standards of this chapter and of the River Management Plan; it shall deny the permit upon a finding that the application and plan do not meet one or more standards, identified in the finding, of this chapter or of the River Management Plan.
- D. Following the decision of the Planning Commission, either the applicant or any other person who is adversely affected by the decision may file an appeal to the Board of Supervisors in accordance with Chapter 2.09. The appeal must be filed within ten days after the action of the Planning Commission on a form furnished by the Clerk to the Board of Supervisors. The appeal must be accompanied by a fee for every permit or application included in the appeal. The appeal fee shall be in an amount as established by the Board of Supervisors from time to time.

(Code 1997, § 5.48.050; Ord. No. 4594, 1-15-2002)

**Sec. 5.48.060. Permit term; annual review; fees.**

- A. Commercial river use permits shall be issued for a three-year term, with mandatory annual review by County Parks. The permit term shall run from the earlier of April 1 or the date of issuance.
- B. Notwithstanding Subsection A of this section, the following permits shall have one-year terms:
  - 1. A permit issued for a commercial river use that has been operating for less than one year.
  - 2. A permit issued to an operator who does not currently hold a permit.
- C. In its annual review, County Parks shall review any violations or complaints regarding the permittee and require the permittee to provide the following: a statement of any changes in its river use plan, current certificates of insurance, a newly executed letter agreeing to observe all standards enacted or enforced by the Director of Environmental Health regarding food storage, handling, and preparation, solid waste, sewage and sewage disposal, and water supply.
- D. Fees for the issuance and annual review of commercial river use permits shall be established by resolution of the Board of Supervisors. The issuance fee shall be an amount equal to the estimated cost of enforcing and administering the provisions of this chapter, including the processing of the application. The annual review fee shall not exceed the costs of conducting the annual review.

(Code 1997, § 5.48.060; Ord. No. 4594, 1-15-2002)

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### **Sec. 5.48.070. River use plan contents.**

The river use plan required by Section 5.48.050 shall include, but need not be limited to, the following information:

- A. Applicant's name, mailing address, and location of place of business.
- B. If the place of business is not located in the County, the name, address, telephone number, and other relevant contact information of a local agent within the County who will be available in the event of emergencies or other problems.
- C. Full description of all activities proposed to be conducted under the commercial river use permit being sought.
- D. Full descriptions, including location, of all planned ingress and egress from the water, as well as all rest stops, lunch stops, or other planned non-emergency stops on adjoining lands. All lands so specified must be property for which the private landowner has secured a special use permit that allows the planned use, or property owned by a State or Federal agency.
- E. Full description, including location, of the parking facilities for the permittee's commercial vehicles, employees, clients, and guests. Parking facilities must provide parking allocated to the permittee's exclusive use that meets the standards of Chapter 130.18. All lands specified for parking facilities must be property for which the private landowner has secured a special use permit that allows the planned use, or property owned by a State or Federal agency.
- F. Written proof that the applicant has obtained the landowners' or managing public agencies' permission for the activities planned on all lands specified in response to Subsections D and E of this section, if the applicant is not the landowner.
- G. Written confirmation that the permittee will provide shuttle transportation services to and from all points of ingress and egress. Vehicles used by permittee to transport clients, employees, or equipment shall meet at current State Vehicle Code requirements.
- H. Written confirmation of compliance with County Environmental Health permit requirements and all food storage, handling and preparation, solid waste, sewage and sewage disposal, and water supply standards enacted or enforced by the Director of Environmental Health. This requirement may be satisfied by a letter and Environmental Health permit application, signed by the applicant, agreeing to observe all such standards.
- I. Full description of planned safety measures for river users that meet that standards of Section 5.48.120.
- J. Written proof of bodily injury and liability insurance covering all activities of the permittee and the permittee's employees or agents relating to or incidental to river use pursuant to the permit sought. Liability insurance must meet scope and amount standards set by resolution of the Board of Supervisors, and must name the County, its officers and employees, and riparian landowners as additional insureds.
- K. Full description of a name or logo identification, to be utilized on all flotation devices, that meets the criteria of Subelement 6.2.5 of the River Management Plan, as it may be amended from time to time.

(Code 1997, § 5.48.070; Ord. No. 4594, 1-15-2002)

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**Sec. 5.48.080. Limitation on allocations.**

Notwithstanding Section 5.48.050, no river use permit will be issued if its issuance would cause the total weekend or weekday commercial use allocation to exceed the allocations authorized by permits in effect on November 20, 2001, unless a permit is sought for the provision of a truly new and unique commercial river use, as determined by the Planning Commission or the Board of Supervisors on appeal. The purpose of this limitation is to protect the health, safety and welfare of river users and riparian landowners, as well as the riparian environment.

(Code 1997, § 5.48.080; Ord. No. 4594, 1-15-2002)

**Sec. 5.48.090. No vested right.**

The granting of a commercial river use permit does not vest any right or entitlement to an extension or renewal beyond the permit period.

(Code 1997, § 5.48.090; Ord. No. 4594, 1-15-2002)

**Sec. 5.48.100. Revocation, denial, or non-renewal of permit.**

- A. A commercial river use permit may be revoked by the County Hearing Officer, or the Board of Supervisors on appeal, and may be reapplied for in the following year, pursuant to the standards and procedures of the River Management Plan as it may be amended from time to time.
- B. If a commercial river use permit has been revoked and not issued on reapplication, denied, or no timely application for its renewal has been submitted, the weekday and weekend use allocations associated with that permit shall revert to the County. After first soliciting a recommendation from the river management advisory committee, the Board of Supervisors may dissolve those allocations or assign them to one or more existing commercial outfitters or new commercial outfitters who apply for all or a portion of the allocations.

(Code 1997, § 5.48.100; Ord. No. 4594, 1-15-2002)

**Sec. 5.48.110. Permit transfer, consolidation, or inactivation.**

Commercial river use permits may not be transferred or consolidated in whole or part, or inactivated, except as provided in Subelement 6.2.1.4 of the River Management Plan, as it may be amended from time to time.

(Code 1997, § 5.48.110; Ord. No. 4594, 1-15-2002)

**Sec. 5.48.120. Safety equipment and standards.**

- A. Each floating device used to traverse a stream or river shall carry one U.S. Coast Guard approved personal flotation device per person using the floating device.
- B. The number of persons using a floating device shall not exceed the floating device's design capacity, except in an emergency or rescue situation.
- C. All commercial outfitters shall observe the safety, training, and equipment standards of Subelements 6.2.7 and 6.2.8 of the River Management Plan, as they may be amended from time to time.

(Code 1997, § 5.48.120; Ord. No. 4594, 1-15-2002)

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### **Sec. 5.48.130. Littering and trespass.**

All persons, groups or business entities who use the streams and rivers of the County for recreational or commercial purposes shall be subject to State law regarding littering and trespass.

(Code 1997, § 5.48.130; Ord. No. 4594, 1-15-2002)

### **Sec. 5.48.140. Penalty for violation.**

- A. Violation by commercial river use permittees of certain standards and representations specified in Section 5.48.070 shall be penalized as follows:
  - 1. Violations of Section 5.48.070.A, B, D, E, F, G, or K shall be punishable as specified in Subelement 6.2.10.3 of the River Management Plan, as it may be amended from time to time.
  - 2. Violations of Section 5.48.070.H shall be punishable by penalties imposed or enforced by the Department of Environmental Management.
  - 3. Violations of Section 5.48.070.C or J shall be punishable as specified in Subelement 6.2.10.4 of the River Management Plan, as it may be amended from time to time.
  - 4. Violation of Section 5.48.070.I shall be a misdemeanor punishable pursuant to Subsection B of this section.
- B. Except as otherwise specified in Subsection A of this section, violations of any provision of this chapter shall be a misdemeanor and punishable according to the general penalties described in Chapter 1.24.

(Code 1997, § 5.48.140; Ord. No. 4594, 1-15-2002; Ord. No. 5051, § 2, 4-18-2017)

## ***CHAPTER 5.50. SPECIFIC USE REGULATIONS FOR THE SOUTH FORK OF THE AMERICAN RIVER<sup>1</sup>***

### **Sec. 5.50.010. Purpose and authority.**

- A. The purpose of this chapter is to protect the public's health, safety, and welfare, to protect environmental resources, and to implement certain policies of the 2001 El Dorado County River Management Plan (River Management Plan), by designating a portion of the South Fork of the American River as a special use area and by requiring registration of all persons who, for noncommercial purposes, float or otherwise traverse all or any portion of that special-use area.
- B. The registration of noncommercial boaters is a mandatory implementation measure of the River Management Plan. The River Management Plan also obliges the County to implement boater education and carrying capacity programs. The registration requirement is necessary to ensure that all noncommercial boaters are aware of the following: boating safety rules and information; applicable carrying capacity mitigation measures; locations of public access points and public lands; approved human sanitation methods; and the defining characteristics of noncommercial river trips. The registration requirement is also

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<sup>1</sup>State law reference(s)—Authority of County to adopt ordinances relating to water vessels pertaining only to time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control, Harbor and Navigation Code § 660.

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necessary to ensure that institutional groups, as defined in this chapter, provide evidence of appropriate insurance coverage and safety training.

- C. The ordinance from which this chapter is derived is enacted under the authority of Harbors and Navigation Code § 660, which authorizes the County to designate special-use areas and impose pollution and sanitation controls. This chapter regulates noncommercial recreational travel within the defined special-use area in order to ensure pollution and sanitation control; the safety of the travelers; the health, safety, and welfare of the community; and the protection of the environment.

(Code 1997, § 5.50.010; Ord. No. 4596, 3-19-2002)

### **Sec. 5.50.020. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Institutional group* means a group participating in a noncommercial river trip operated as a program of a nonprofit organization that meets IRS tax-exempt requirements, or a noncommercial group participating in a river trip through an accredited academic program as part of the educational curriculum of a school, college, or university.

*Large group* means a non-institutional group of four or more boats having three or more occupants, or a total of 18 or more people, participating in a noncommercial river trip.

*Noncommercial river trip* means to float, traverse, or travel all or any part of the special-use area defined by this chapter on a trip that meets all of the following criteria:

- A. Fees or charges are collected only to recover the actual costs of the trip.
- B. All expenses are shared equally by all group members.
- C. No member of the group obtains financial gain, including salaries, or otherwise benefits by increased assets.
- D. No paid employees such as guides, lead guides, or drivers are compensated by salary, wages, or equipment, with the exception that educational leaders for accredited educational programs may be paid or compensated by their educational employer.
- E. Donations or fees that exceed the actual costs of the trip are not solicited as a condition or participation, nor during or immediately after (on the day of) the trip.

(Code 1997, § 5.50.020; Ord. No. 4596, 3-19-2002)

### **Sec. 5.50.030. Special-use area.**

The portion of the South Fork of the American River between Chili Bar Dam and the confluence of the Folsom Lake State Recreation Area is hereby designated as a special-use area pursuant to Harbors and Navigation Code § 660.

(Code 1997, § 5.50.030; Ord. No. 4596, 3-19-2002)

### **Sec. 5.50.040. Registration required for noncommercial river trips.**

At least one person in or on each boat, raft, kayak, vessel, or any other type of craft who participates in a noncommercial river trip must register with the County each calendar year. Registration shall be accomplished by

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signing and dating a tag provided by the County. By signing the tag, the person certifies that he or she has read the information and rules on the tag and that failure to abide by those rules is a violation of this chapter. This tag must be displayed in a visible location throughout the noncommercial river trip, and must be surrendered to any peace officer upon demand.

(Code 1997, § 5.50.040; Ord. No. 4596, 3-19-2002)

#### **Sec. 5.50.050. Registration required for large groups.**

In addition to the requirements of Section 5.50.040 and prior to every noncommercial river trip, each large group must complete and return a pre-trip large group registration form provided by the County.

(Code 1997, § 5.50.050; Ord. No. 4596, 3-19-2002)

#### **Sec. 5.50.060. Registration required for institutional groups.**

In addition to the requirements of Section 5.50.040 and prior to its first noncommercial river trip in any season, each institutional group must:

- A. Complete and return a pre-season annual registration form provided by the County.
- B. Provide proof of liability insurance meeting current county standards.
- C. Provide proof of guide certification on guiding, safety, and rescue training, first aid, and knowledge of County regulations.
- D. Have previously provided post-season annual reporting of the prior year's river use, by date.

(Code 1997, § 5.50.060; Ord. No. 4596, 3-19-2002)

#### **Sec. 5.50.070. Litter and human waste.**

- A. Each boat, vessel, raft, kayak or other craft must carry a container of durable construction that can be used for trash and litter disposal while engaged in a noncommercial river trip. All litter and waste must be removed by the user in accordance with Sections 5.48.130, Littering and Trespass, 9.46.280, Littering, and 9.46.290, Waste Disposal, of the El Dorado County Ordinance Code.
- B. Each person or group of persons who uses any public or private lands adjacent to the South Fork of the American River within the special-use area must have access to or provide an approved privy, toilet, porta-potty or other approved human waste disposal method. The approving agency for any human waste disposal method shall be the Environmental Health Division of the El Dorado County Environmental Management Department.

(Code 1997, § 5.50.070; Ord. No. 4596, 3-19-2002; Ord. No. 5007, § 1, 6-17-2014)

#### **Sec. 5.50.080. Quiet zone.**

The noise provisions of Chapter 9.16 shall be applicable to all persons engaged in noncommercial river trips within that portion of the designated special-use area that is also designated as a "Quiet Zone" pursuant to the river management plan, as it may be amended from time to time.

(Code 1997, § 5.50.080; Ord. No. 4596, 3-19-2002)

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**Sec. 5.50.090. Penalty for violation.**

In addition to any other penalties provided by law, violation of any provision of this chapter shall be punishable as specified in Chapter 1.24.

(Code 1997, § 5.50.090; Ord. No. 4596, 3-19-2002)

**Sec. 5.50.100. Glass ban.**

Due to the serious hazard created by discarded and/or broken glass, possession of any glass bottle, jar, tumbler or vessel of any kind is prohibited:

- A. Within 100' of the waterline of the South Fork of the American River on County property including but not limited to Henningsen Lotus Park and Chili Bar Park. This prohibition does not apply to permitted special events or private property.
- B. On the South Fork of the American River.

(Ord. No. 5007, § 2, 6-17-2014)