



BOARD OF SUPERVISORS
COUNTY OF ALPINE, STATE OF CALIFORNIA
AGENDA
REGULAR MEETING
TUESDAY, MARCH 3, 2020 09:00 AM

OPEN SESSION – 09:00 AM

Donald Jardine	District 1
Ron Hames	District 2 –Chair
Katherine Rakow	District 3
Terry Woodrow	District 4 – Vice Chair
David Griffith	District 5

Board Chambers
County Administration Building
99 Water Street
Markleeville, CA – 96120

Nichole Williamson
County Administrative Officer
530-694-2287

David Prentice
County Counsel
530-694-2287

Teola L. Tremayne
County Clerk and
Ex-officio Clerk to the Board
530-694-2281

The Board of Supervisors welcomes you to its meetings, which are regularly scheduled for the first and third Tuesday of each month. Your participation and interest are encouraged and appreciated. All members of the public are encouraged to participate in the discussion on any items on the agenda at the time the items come up for board consideration. Speakers are requested to identify themselves before speaking.

Any person may also make comments during the scheduled Oral Communication – Public Comment period on items of interest, within the subject matter jurisdiction of the board, that are not listed on the posted agenda. No action will be taken on any oral communication item. All oral communications must be directed to the board as a whole, not to individual board members and not to the audience.

Any written materials relating to an agenda item to be discussed in open session that are distributed within 72 hours prior to the meeting will be made available for public inspection at the time the materials are distributed to members of the Board of Supervisors.

All proceedings are conducted in English. The Board is committed to making its proceedings accessible to all citizens. Individuals with special needs may call 530-694-2281. All inquiries must be made at least 48 hours prior to the meeting.

So far as is practical, unless otherwise altered by the Chair of the Board, the order of business for the Board meeting is as follows. Please note that designated times are for that particular item only.

1. CALL TO ORDER REGULAR MEETING

2. OPEN SESSION - PLEDGE OF ALLEGIANCE

3. ORAL COMMUNICATION - GENERAL PUBLIC COMMENT

This portion of the meeting is an opportunity for members of the public to address the Board of Supervisors on subjects relating to county business. No action can be taken on matters not listed on the agenda. Each member of the public who wishes to address the Board shall be allotted three minutes and no more than three individuals shall address the same subject. Time permitting, at the discretion of the Chair, time allotted may be increased or decreased depending on the number of speakers and available time.

4. DEPARTMENT ANNOUNCEMENTS

5. ADMINISTRATIVE ANNOUNCEMENTS

6. BOARD MEMBER'S ANNOUNCEMENTS OR REPORTS

7. CONSENT AGENDA

These matters are expected to be routine and non-controversial and are usually approved by a single majority vote without discussion. Items can be removed from the consent agenda to be discussed and considered separately. Prior to approval of the consent agenda the chair will announce that comments or questions will be taken from members of the public, staff or the Board on consent agenda items when the comment does not necessitate the item being removed for separate action.

7.1. Request approval of regular meeting minutes of 02/18/2020. – County Clerk

7.2. Request approval of County Claims. – County Clerk

7.3. Request approval to add an additional Fiscal and Technical Specialist position to the Behavioral Health Services position allocation list and direct the Finance Department to work with the Behavioral Health Department to make budgetary adjustments. – Behavioral Health Director

7.4. Request approval to add an additional Mental Health Services Act (MHSA) Specialist position to the Behavioral Health Services position allocation list and remove the Native Wellness Specialist position from the funded position allocation list; direct the Finance Department to work with the Behavioral Health Department to make budgetary adjustments. – Behavioral Health Director

7.5. Request a transfer of \$37,204 from fund 100-199-595010 General Fund Contingency to fund 100-103-51400-142 PERS Arrears to address a PERS audit determination and settlement in the McGeein and Alpine County V CALPERS Case No 2018-0896 – Deputy CAO to Personnel and Risk Management

7.6. Request appointment of Bob Broyer to the Planning Commission representing District 4 for the term July 1, 2019 to June 30, 2023. – County Clerk

7.7. Request appointment of Jeffrey McKay to the Solid Waste Independent Hearing Panel representing Public at large for the term beginning January 1, 2020 and ending December 31, 2023. – County Clerk

8. PUBLIC HEARINGS

- 8.1. **(10:00 AM)** Public Hearing and first reading of proposed tobacco ordinance to ban the sale of flavored tobacco and tobacco products in Alpine County. – Deputy Director of HHS

9. REGULAR AGENDA - UNFINISHED BUSINESS

- 9.1. Continued discussion of the status and progress of the Alpine County Behavioral Health Services building project Update. (Ref. 03/05/2019 and continuing quarterly through completion and close out of the project) – Community Development Director
- 9.2. Continued request for approval of letter of support to Governor Gavin Newsom for the Washoe Tribe for the Intertribal Stewardship Workforce Initiative to the Office of Emergency Services. – CAO/HHS Director

10. REGULAR AGENDA - NEW BUSINESS

- 10.1. **(9:30 AM)** Presentation by Meagan Hartman and Andrew Haden from High Sierra Community Economic Development Corporation, a subsidiary of Wisewood Energy, on the Alpine Biomass Collaborative (ABC) and Calaveras Healthy Impact Product Solutions' (CHIPS) scoping study on how best to utilize the excess biomass in our forests and improve the local economy. – CAO/HHS Director
- 10.2. Discussion and possible direction to staff regarding temporary short term rental regulations. – CAO/HHS Director
- 10.3. Request appointment of two Board members to an ad-hoc committee to work with staff to come up with recommendations for projects to submit to the Eastern Sierra Sustainable Recreation Partnership (ESSRP). – Supervisor District 5
- 10.4. Request Adoption of a Resolution Adopting an Expenditure Plan for Fiscal Year 2020-21 Funded by SB 1: The Road Repair And Accountability Act Of 2017 – Community Development Director
- 10.5. Request discussion and a possible comment letter to the U.S. Fish and Wildlife Service regarding the proposed endangered species listing for the Sierra Nevada red fox – Community Development Director

11. ADJOURN TO ANY OF THE FOLLOWING AGENCIES FOR WHICH THE BOARD OF SUPERVISORS SITS AS OFFICERS: BOARD OF EQUALIZATION, LOCAL TRANSPORTATION COMMISSION, WATER AGENCY

12. CLOSED SESSION

- 12.1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Pursuant to GC § 54957 (b) (1) - County Administrative Officer/Health and Human Services Director – CAO/HHS Director

13. ADJOURNMENT

The Board will adjourn to the next regular meeting of Tuesday, March 17, 2020 at 9:00 AM at Alpine County Government Center, 99 Water Street, Markleeville, California.

Teola L. Tremayne, County Clerk and ex officio
Clerk to the Board of Supervisors
By: Patricia Griffin, Assistant County Clerk

AGENDA TRANSMITTAL



TO: Board of Supervisors

FROM: Jeff McKay, Deputy Director of HHS

DATE OF MEETING: March 3, 2020

PREPARED BY: Jeff McKay, Deputy Director of HHS

TITLE: Public Hearing and first reading of proposed tobacco ordinance to ban the sale of flavored tobacco and tobacco products in Alpine County.

SUMMARY: Alpine County Health and Human Services – Public Health requests a waiving of the first reading and a Public Hearing for discussion of a proposed County ordinance to ban the sale of flavored tobacco and tobacco products in Alpine County.

RECOMMENDED ACTION: Waive the first reading and set the second reading and possible adoption of the ordinance for the March 17, 2020 Board of Supervisors meeting.

ISSUE STATEMENT AND DISCUSSION:

FISCAL IMPACT:

1) Budgeted Current Fiscal Year	<input checked="" type="checkbox"/> (Not Applicable)
2) Total Anticipated Cost Current Year	<u>\$0.00</u>
3) Total Anticipated Cost Annual Year	<u>\$0.00</u>

SOURCE

<input type="checkbox"/> Unanticipated	<u>\$0.00</u>
<input type="checkbox"/> Revenue From Contingency	<u>\$0.00</u>
Other:	

FUNDING SOURCE:

INSTRUCTIONS TO CLERK: Copy to HHS and Community Development

AN ORDINANCE OF THE COUNTY OF ALPINE RESTRICTING SALE OF FLAVORED TOBACCO AND VAPING PRODUCTS

TO BE ORDAINED BY THE PEOPLE OF COUNTY OF ALPINE:

Alpine County Code shall be amended to include Section _____ to read as follows:

____.____. 010 Definitions.

- A. "County" shall mean the County of Alpine.
- B. "County building" shall mean any county-owned building including, but not limited to, the Alpine County Courthouse, Alpine County Administration Building, Alpine County Health and Human Services, Alpine County Sheriff and Probation Department buildings, the county road shops, the county library, and all community centers and senior centers.
- C. "Business" means any sole proprietorship, partnership, joint venture, corporation, association, or any other entity formed for profit-making purposes or that has an employee, as defined in this section.
- D. "Characterizing flavor" means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted by tobacco, either prior to or during use of the tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, nut or spice provided, however, that a tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.
- E. "Dining area" means any area available to or customarily used by the general public, that is designed, established, or regularly used for consuming food or drink.
- F. "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine or tobacco or any other substances, including any component, part or accessory of such a device, whether or not sold separately.
- G. "Employee" means any person who is employed; retained as an independent contractor by any employer, as defined in this section; or any person who volunteers his or her services for an employer, association, nonprofit, or volunteer entity.
- H. "Employer" means any person, partnership, corporation, association, nonprofit or other entity which employs or retains the service of one or more persons or supervises volunteers.
- I. "Enclosed area" means:

1. An area in which outside air cannot circulate freely to all parts of the area, and includes an area that has:

- a. Any type of overhead cover whether or not that cover includes vents or other openings and at least three walls or other vertical constraints to airflow including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or
- b. Four walls or other vertical constraints to airflow including, but not limited to, vegetation that exceeds six feet in height, whether or not those boundaries include vents or other openings.

J. "Flavored tobacco product" means any tobacco product or smoking product that imparts a characterizing flavor.

K. "Labeling" means written, printed, or graphic matter upon any tobacco product or any of its packaging, or accompanying such tobacco product.

L. "Manufacturer" means any person, including any re-packer or re-labeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.

M. "Multi-unit residence" means any residential structure with two or more units and has at least one or more shared walls, floors, or ceilings. Additionally, a residential structure that has two or more units and has a shared ventilation system is considered a multi-unit residence.

A multi-unit residence does not include the following:

1. A single-family residence with a detached in-law or secondary dwelling unit;
2. A single, contiguous residence in which rent is shared by the residents; and
3. A hotel or motel that meets the requirements of California Civil Code section 1940, subdivision (b)(2).

N. "Multi-unit residence common area" means any indoor or outdoor common area of a multi-unit residence accessible to and usable by more than one residence, including but not limited to halls, lobbies, laundry rooms, outdoor eating areas, play areas, swimming pools and recreation areas.

O. "Nonprofit entity" means any entity that meets the requirements of California Corporations Code Section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

- P. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.
- Q. "Place of employment" means any area under the legal or de facto control of an employer, business or nonprofit entity that an employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and private residences that are used as childcare or health care facilities subject to licensing requirements.
- R. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- S. "Playground" means any park or recreational area designated in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on county property.
- T. "Public place" means any place, public or private, open to the general public regardless of any fee or age requirement, including, for example, bars, restaurants, clubs, stores, stadiums, parks, Playgrounds, taxis and buses.
- U. "Reasonable distance" means a distance of at least twenty feet to ensure that occupants of a building and those entering or existing the building are not exposed to secondhand smoke created by smokers outside of the building.
- V. "Recreational area" means any area, public or private, open to the public for recreational purposes regardless of any fee requirement, including, for example, parks, gardens, sporting facilities, stadiums, and playgrounds, but excluding those areas where the county lacks jurisdictional authority to regulate.
- W. "Service area" means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place, or make a transaction whether or not such service includes the exchange of money, including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, and cab stands.
- X. "Smoke" or "smoking" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated tobacco product or marijuana (as defined in Chapter 7.04.020 of the Alpine County Code) intended for inhalation, whether natural or synthetic, in any manner or in any form including but not limited to a cigar, cigarette, cigarillo, vaporizer, joint, pipe,

hookah or electronic smoking device. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

- Y. "Smoking product" means any substance or product containing nicotine or tobacco that is meant to be used in conjunction with an e-cigarette or any other type of smoking or vaporizing contraption including but not limited to joints, cigarettes, cigars, bonges or pipes. "Smoking product" also means, Indian cigarettes called "bidis", and cartridges and liquid solutions for e-cigarettes, which may be utilized for smoking, chewing, inhaling or other manner of ingestion.
- Z. "Tobacco paraphernalia" means any item designed or marketed for the consumption, use, or preparation of tobacco products.
- AA. "Tobacco" or "tobacco product" means:
 - 1. Any product containing, made, or derived from tobacco leaf or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff.
 - 2. Any electronic device that delivers nicotine or other similar substances to the person inhaling from the device, including, but not limited to any type of vaping device, an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.
 - 3. Any component, part, cartridge or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately.
 - 4. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product (e.g., Nicorette gum, patch, etc.) or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.
- BB. "Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.
- CC. "Unit" means a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use enclosed area or unenclosed area, such as for example, a private balcony, porch, deck or patio. "Unit" includes, without limitation, an apartment; a condominium; a townhouse; a room in a motel or hotel; a dormitory room.

___. __. 020 - Sale of flavored tobacco products prohibited.

- A. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product.
- B. There shall be a rebuttable presumption that a tobacco retailer in possession of flavored tobacco products, including but not limited to individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with the intent to sell or offer them for sale.
- C. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer has:
 - 1. Made a public statement or claim that the tobacco product imparts a characterizing flavor;
 - 2. Used text and/or images on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a characterizing flavor; or
 - 3. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a characterizing flavor.
- D. This ordinance will take effect on July 1, 2020.

___. __. 030 - Penalties.

- A. Unless the applicable section of this chapter provides that violation is a misdemeanor, any person or business violating any provision of this chapter, upon conviction thereof, shall be guilty of an infraction and subject to a fine (not including court-imposed mandatory penalties) of one hundred dollars for the first violation, two hundred dollars for the second violation, and five hundred dollars for any subsequent violation. For purposes of this chapter, each day of noncompliance shall be considered a separate violation.

___. __. 040 – Enforcement.

- A. The Alpine County Sheriff's Department shall enforce and implement this chapter, and shall aid the Public Health Department in their duties under contract with the California State Department of Health, such compliance monitoring of this chapter and other state laws referred to in this chapter.
- B. The director, sheriff's department, and code compliance specialist if applicable, shall maintain clear and thorough records and logs of all investigations and communications made in relation to every written complaint filed with the Public Health Department pursuant to this section.

PASSED AND ADOPTED by the Board of Supervisors of the County of Alpine, State of California,
at a regular meeting of said Board, held on the _____ day of January, 2020 by the following vote:

AYES:

NOES:

ABSENT:

Ron Hames
Chair, Board of Supervisors
Alpine County

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Margaret E. Long
County Counsel