

**AGENDA**

**TRI-COUNTY TECHNICAL ADVISORY COMMITTEE**

**FRIDAY July 14, 2008  
10:00 A.M.**

**KMPUD COMMUNITY SERVICES BUILDING, LOOP ROAD, KIRKWOOD, CA**

*For further information on any of the agenda items, contact El Dorado County Planning Services at (530)621-5355.*

Off-agenda items must be approved by the Tri-County Technical Advisory Committee pursuant to Section 5496.5 of the Government Code.

- A. Correspondence:
- B. Minutes: June 13, 2008
- C. Public matters, information items and persons wishing to address the Committee regarding non-agenda items.

D. Public Hearing Items:

ITEM 1: Discussion and possible recommendation to the Alpine County Planning Commission on a conditional use permit to allow a seasonal yurt for winter recreation equipment rentals located on Burnside Lake Rd at Pickett's Junction in Hope Valley. Applicant: Hope Valley Outdoors

ITEM 2: Review of Mitigation Measure Compliance Documentation submitted by KMR for the 2007/2008 season for Measure 4.12c, Sensitive Resources.

ITEM 3: Discussion of an Air Quality Ordinance for a fee and incentive program to reduce particulate matter emissions in Kirkwood. Applicant: Amador, Alpine, and El Dorado Counties

**DRAFT  
MINUTES  
TRI-COUNTY TECHNICAL ADVISORY COMMITTEE**

**June 13, 2008**

**MEMBERS PRESENT:**     Brian Peters             Alpine County  
                                 Peter Maurer             El Dorado County  
                                 Nathan Lishman         Amador County

**OTHERS PRESENT:**     Zach Wood                 Alpine County  
                                 Nate Whaley             KMR  
                                 Michael Richter         KMR  
                                 Reid Bennett             KMA Homeowner

The June 13, 2008 meeting was called to order by Chair Brian Peters at 10:08 a.m.

**A.     Correspondence:**

None

**B.     Minutes:**

Draft minutes for May 9, 2008 were submitted. Zach Wood noted that he needed to add the names of the other attendees. Nathan Lishman moved to approve the minutes with the addition of the names. Brian Peters seconded the motion which was approved 2-0 with Peter Maurer abstaining.

**C.     Public Matters:**

There were no public comments. Peter Maurer noted that El Dorado County is now posting the agendas and will post the minutes dating back to February 2008 on its web site: <http://www.co.el-dorado.ca.us/Planning/tri-tac.html>.

**D.1.   Review and comment to the Amador County Planning Commission on a zoning interpretation for the former Kay's Resort site at Silver Lake.**

Nathan Lishman provided background on the request. EID took over the resort when they purchased Project 184 from PG&E. It has been shut down due to health and safety concerns. Amador County is trying to have the structure saved since there are concerns regarding the mobile vendor relating to the scenic highway. Mr. Lishman stated that as long as EID is working toward resolution of the issues, Amador County staff is willing to recommend extending the use. There is a lot of public interest in the removal project, with concern about maintaining the public restroom.

Peter Maurer asked if the building is considered historic. Mr. Lishman replied that what was the café was originally built in the 1860s, but except for some support timbers, it has been replaced with newer material. They are trying to retain the store building.

Michael Richter asked what the County's role was in the project. Mr. Lishman replied that the County is requiring EID to remove the fence as it currently is a violation of the scenic highway requirements. They want to make sure that the health and safety concerns are addressed, as well as historic preservation issues. Reid Bennett stated that retaining the restrooms could be a public health issue.

Mr. Maurer stated that there was no permit activity or issues on the El Dorado County side of the highway. Nate Whaley stated that he would want to make sure whatever actions are taken do not preclude future recreational use of the site. Mr. Maurer moved to recommend to Amador County approval of the extension; seconded by Mr. Lishman. The motion carried 3-0.

**D.2. Review of Mitigation Measure Compliance Documentation submitted by KMR for the 2007/2008 season, including but not limited to; parking, fishing brochure verification, and snowmaking.**

Michael Richter of KMR provided an overview of the submittal documents.

- Mitigation Measure 4.2(v) & 4.4(e) - Street sweeping – Invoices provided.
- Mitigation Measure 4.9(b) - Snow making – Equipment is the same as last year. Nature dictates the extent of operations.
- Mitigation Measure 4.3.1(h) - Fishing brochures – Updated for 2008.
- Mitigation Measure 4.7(d) - Parking analysis – The documents included information from the field notes and data collected during the season. The map submitted shows the revised parking layout. Capacity is 3097 spaces under the current configuration. 2916 vehicles was last season's peak day.

Nathan Lishman reminded the Committee that one acceptable mitigation measure is to turn vehicles away. Nate Whaley noted that this occurred occasionally, but only due to traffic backups or accidents. Nate Whaley noted that carpooling has helped. There were 8600 skiers on the peak day.

Reid Bennett asked if the numbers and reports are vetted in any way. He expressed a concern about the actual number of vehicles compared to standard parking space requirements. Mr. Whaley responded that KMR bases the parking practice, i.e. how tight they pack the vehicles in, by the expected demand for that specific day. Mr. Bennett asked if the USFS had any parking requirements. Mr. Richter stated that he was not aware of any. The Forest Service permit is more concerned about mountain activities and SAOT.

Mr. Lishman stated that he field verified the avalanche and fishing signs were posted. Mr. Whaley indicated that KMR has also done an analysis correlating parking to buildout conditions, showing the net result of different projects. That was not submitted but is available if needed. Peter Maurer responded that he did not feel it was needed until future years, or as projects are submitted that

would affect the parking. Mr. Bennett wanted to remind KMR and the Committee about the need for restricting day use parking on KMA streets.

No action was required or taken.

**D.3. Discussion and possible recommendation regarding the proposed Kirkwood Air Quality Ordinance, regulating installation of new solid fuel burning devices and creating an incentive program for replacing old non-compliant devices.**

Zach Wood reviewed the most recent draft of the ordinance which was presented to the Committee at the meeting. The ordinance is part restriction, part incentive based, providing rebates for removal of non-compliant devices. The rebate program is intended to work through the respective County Planning Departments. The Particulate Matter Reduction Plan is still being developed.

Brian Peters stated that the ordinance is being developed under the California Government Code section relating to impact fees, and there is a special process that must be gone through, with findings, notice, etc. The Counties will need to ensure that the ordinance is consistent with statements in the EIR. There was discussion regarding how each county adopts fees, whether by ordinance or resolution.

Nathan Lishman asked if KMR was still willing to provide some “seed money” to start up the rebate program. Nate Whaley stated that there had been no further discussion on that point. He then expressed a concern about the definition of “development project”, and the timing of when the fee would be paid. He believes it makes more sense for it to be at the building permit rather than a map, since it would be unknown if solid fuel devices would be installed until the building permit phase. Mr. Peters agreed and stated that the language still needs some refinement. Mr. Whaley asked if one County might administer the program. Peter Maurer suggested that perhaps the PUD could do it. The item was continued to the July meeting.

**D.4. Discussion of defensible space required pursuant to California Public Resources Code 4291**

Brian Peters explained the concerns regarding the apparent conflict between the fire safety requirements of PRC 4291 and the Kirkwood tree ordinance. Peter Maurer expressed a concern that tree removal can occur under the guise of fire safety but it really is only to improve a view. This is especially the case with existing structures, since the review process is in place for new construction. Tri-TAC needs to provide a level of flexibility, while maintaining the intent of both provisions. Mr. Peters stated that the ordinance will probably need to be amended to allow a certain level of limbing and tree removal to occur consistent with PRC 4291. However, an interim resolution is to consider creation of defensible space as part of the building permit process. The rest of the committee concurred and no action was taken.

The meeting was adjourned at 11:38 a.m.

The next meeting is scheduled for **Monday, July 14, 2008.**

## **ITEM 1**



# HOPE VALLEY OUTDOORS



# YURT RENEWAL

# PROPOSAL 2008

**BURNSIDE LAKE TRAIL HEAD CROSS-COUNTRY SKI OPERATION**  
**A Proposal for Renewal of Existing Permit**  
**Seasonal Yurt Based Trail Head Operation at Pickett Junction**

**Prepared by:**  
**Joyce Coker Sole Proprietor**  
**Hope Valley Outdoors**

**May 2008**

**Need Statement**

Hope Valley Outdoors is herein applying to renew our existing conditional use permit for our cross-country ski and snowshoe operation located at Burnside Lake Trail Head. The Planning Commission originally granted the existing permit for two winter seasons beginning October 2006. The proposed renewal is seasonal and will entail setting up a yurt and comfort stations at Pickett's Junction (as depicted on attached map). At the end of the season we will dismantle the yurt, remove the comfort stations and adhere to all agency regulations and conditions as specified in our permit (as demonstrated by our operation during the past season).

**Mission, Goals, Objective:**

We are a society inclined toward motorized, energy consuming, large carbon foot print recreation. Times are changing and people are seeking earth friendly recreation opportunities. Hope Valley Outdoors (HVO) is responding to that change. This past season, thanks to this agency's foresight, we experimented with a new idea - an earth friendly, sustainable form of recreation that focuses on health, personal achievement, insights into natural history, encouragement of environmental ethics, and stewardship of our natural resources. We are pleased to report that this experiment was a tremendous success. Attendance was high, our services were appreciated and we gladly provided ancillary services and benefits to the general public with whom we share the resource. We believe it is a privilege to offer this exciting alternative form of recreation on public land and respectfully request that we be granted the privilege to continue.

**Operational Plan**

**A. General Description**

HVO's primary service is cross-country skiing and snowshoeing. These services include outfitting, rentals, instruction, organized group events and associated winter retail sales.

Our staff and instructors provide all levels of cross-country ski and snowshoe instruction including beginning, intermediate, and telemark lessons. The instructional portion of our services allows us the opportunity to teach our customers the proper techniques for skiing and snowshoeing. This enables them to feel comfortable with the equipment, operate safely and enjoy their

experience. We also use this time to teach basic winter survival techniques, how to read snow conditions and help them understand the importance of stewardship of the natural resource they are enjoying.

In addition to solo skiing and snowshoeing HVO provides cross-country ski and snowshoe tours. Tours that venture more than one mile from a plowed road are guided by two expert guides per 10 customers. Lessons accompanied with tours are conducted in meadow and rolling terrain and restricted to one mile from plowed roads. Guided backcountry tours, on or off marked trails, are occasionally offered and include pre-tour instruction in both safety and appropriate trail usage and courtesy.

## **B. Operational Details**

### **1. Trails, Grooming & Fees**

Cross-country ski operations utilize over 60 miles of marked skier packed trails. Additionally, approximately 20 miles of trails are groomed when necessary. At this time we utilize a donation system for trail fees. All fees generated contribute to the cost of trail grooming.

### **2. Cross-country Ski and Snowshoeing Lessons**

Beginner, intermediate and backcountry telemark lessons are offered. Occasionally lessons are combined with a tour designed to facilitate the lesson plan.

### **3. Tours**

HVO offers several touring opportunities. A favorite with our customers is our Full Moon Tour and the Snowshoe Thompson Tour. Additionally, HVO offers 2 hour backcountry lesson/tours for both cross country skiers and snowshoes.

### **4. Retail**

We sell used and new outdoor equipment. We also sell a variety of associated taxable and non taxable retail items.

## **C. Site Specific Details**

### **1. Location**

HVO proposes to continue to utilize the Burnside Lake Trail head location located at Pickett's Junction, at the intersection of Hwy 88/89. A vicinity map has been attached to this proposal.

### **2. Site Description**

As indicated in our previously approved permit submittal the yurt will be located on the Burnside Lake Road (approx. lat N38\*46.495', W119\*55.1423) as referenced in the Vicinity Map. The topography

of the surrounding area is a meadow with an elevation of approximately 7080 ft with gradual elevation. The location is surrounded by both Forest Service and Fish & Game property. Hope Valley Outdoors has been granted permits for cross-country ski and snowshoeing recreation (including a Forest Service Outfitter's Guide permit) in this vicinity for 20 years: including the 2008-2009 season. Alpine County Planning Commission granted the permit to operate the ski shop using the yurt on the Burnside Lake site, and the Board of Public Works issued an encroachment permit for operation this past winter (2007).

### **3. Headquarters**

a) a portable, seasonally constructed headquarters facility (yurt) will be set up and operated at the junction and will comply with all regulations and conditions as specified in our permit. We usually open Thanksgiving weekend and our season extends through Easter (weather permitting). The yurt (as demonstrated last season) is an earth friendly temporary tent structure. It is constructed on a modular wood platform base and has circular wood supports that form a rigid frame. The frame is covered with white canvas and is designed with a doorway entrance, windows and skylight. Information regarding the yurt is attached to this proposal. Handicap access for the yurt will be a bell located at the handicap parking spot. When someone rings the bell an employee comes out to assist with their needs. A parking space is held open for an emergency vehicle. Both a professional handicap sign and an emergency vehicle sign is posted (along with directions for the bell ringing service). Solar panels are used to generate electrical power. The yurt and associated structures were issued a building permit upon compliance with numerous conditions to make it safe for the public to use.

b) the California EPA has approved a propane stove that provides heat.

c) hours of operation are 9:00-5:00, daily, as weather permits.

d) sign permits have been granted by Alpine County Planning Department.

### **4. Comfort Stations**

A handicap accessible portable toilet was rented from a local vendor during the past operational season and we propose the same for the next season if this permit is granted. HVO will be responsible for managing the vendor operation and will supervise the facility's removal at the end of the season. The facility was located near the parking area in order to avoid negative impacts on the site. The toilet provided an essential service and was used frequently and gratefully by our customers and members of the general public utilizing the Burnside Trail.

## **5. Parking and Snow Plowing**

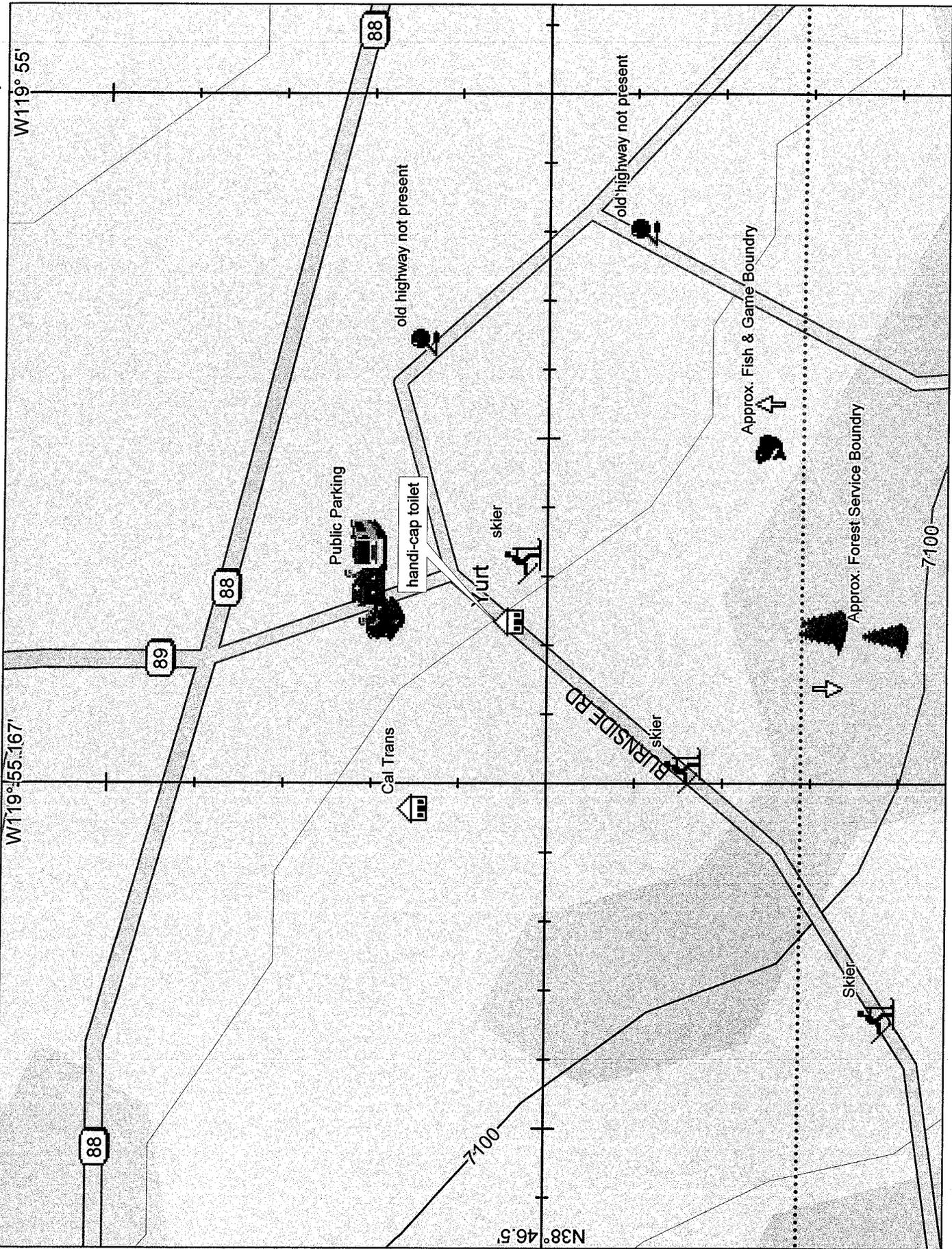
The parking area is public. We observed that many people used the parking area to car pool to Kirkwood for work or play. Others used the parking lot for the day to go sledding or to enter the backcountry for overnight trips.

Throughout last season HVO staff cooperated with Caltrans to clear the parking area promptly after heavy snows. We intend to continue this working relationship with the requested permit renewal.

## **Conclusion**

- Our earth friendly, sustainable outdoor recreation concept, featuring the yurt, was extremely well received by an appreciative recreating public. The yurt and its associated platform structure accommodated heavy snow falls, high winds and even the landing of a helicopter next to the parking area. Local (resident) contractors were utilized to set up the yurt and install our solar power system for electricity.
- Last season we enjoyed widespread support and a number of articles have been published about our yurt, the very image of which harkens back to a simpler time. The idea is so unique and interesting to the public that Channel 10, Sacramento, came up and produced a segment on the yurt and our cross-country skiing and snowshoeing recreation programs.
- Coordination with resource agencies has been ongoing in our effort to avoid conflict with wildlife habitat, natural features and archaeological sites. The widely encouraged "Leave No Trace" ethic is practiced by our entire staff and encouraged for all our visitors.
- We feel it is a privilege to provide our recreational services on public land and go out of our way not to infringe on the general public's experience. In fact, we assist many people who do not use our services as a matter of simply being good neighbors and many have expressed their gratitude.
- Our business model and philosophy are tied directly to the preservation of our natural environment. If granted this renewal we shall repeat the practices we implemented during last season's demonstration. With the overwhelming popularity of "going green," backing our enterprise, and a commitment to abide by all rules, regulations and conditions we ask that you renew our permit and allow us to continue this unique alternative outdoor recreation opportunity.

Joyce Coker, Hope Valley Outdoors  
(530) 694-2266 Business  
(775)781-1937 Cell  
(530) 577-9408 Home



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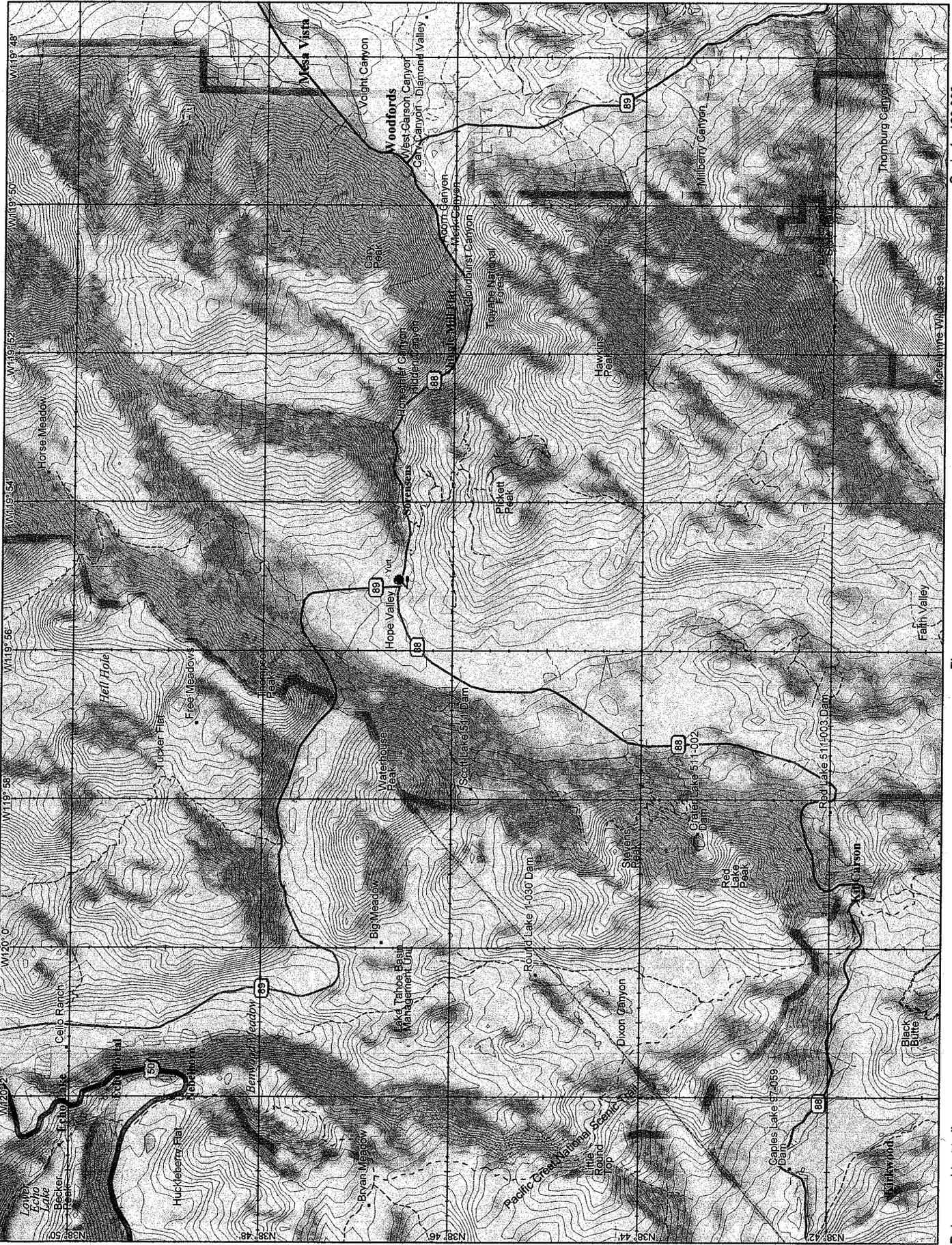
www.delorme.com

Scale 1 : 1,800



1" = 150.0 ft

Data Zoom 15-7



Data use subject to license.

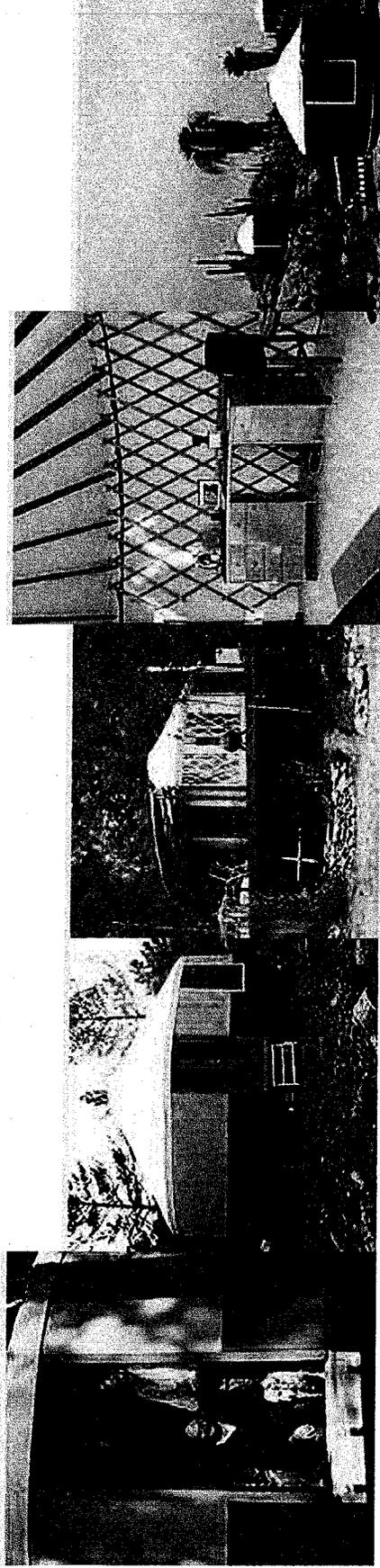
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Scale 1 : 100,000



1" = 1.58 mi Data Zoom 11-0



## Why Buy a Rainier Yurt?

When you buy a Rainier yurt, you get integrity, quality, history, experience and technical expertise. Rainier has been in business for over 100 years, delivering outstanding customer satisfaction.

**Engineering.** Rainier yurts are unique in that they are engineered to meet the new International Building Codes (IBC). Our yurts are engineered for up to 100-pound snow loads and for winds of 90 miles per hour.

**Walls.** At 7' 4", our walls are about a foot-and-a-half taller than other yurts, making the Rainier yurt open and expansive — not stooped or cramped. Our doors are standard, full-height.

**Wall styles.** The Rainier Eagle model yurt is uniquely designed with modular panels. The zip-together panels make it easier to position your windows to take the best

advantage of sun or shade, as the seasons change. Modular panels are easy to replace, too, if they are damaged. This also makes it easy to carry the pieces of your yurt into a remote site for set up. The Rainier Raven model yurt is designed more traditionally, with windows sewn in your specified location.

**Lattice.** Rainier yurts engineer so well because our lattice is the strongest in the industry. Our yurts withstand the highest wind and snow loads of any yurts available.

**Doors.** Our doors use thermal glass — not the Plexiglas used by competitive yurts. This provides better insulation, less condensation and a surface that cleans easily without scratching.

**Cables.** The structural integrity of any yurt depends upon the perimeter tension cable that connects the rafters to the wall lattice. Rainier cables are pre-tensioned to prevent future sagging. Our cable exceeds engineering specifications.

**Rafters.** Our lumber is Douglas Fir, hand-selected by our craftsmen; any wood without clear, straight grain is rejected. Each rafter is then sanded and oiled for long-lasting beauty.

**Compression Rings.** Rainier rings are engineered, structurally designed and beautifully crafted. Both Rainier Yurt models feature our exclusive ring/rafter locking system, assuring the stability of your yurt. Each ring forms a perfect circle to match the circle of the yurt itself.

**Standard roof fabrics.** Rainier yurts use top-quality structural fabrics with an acrylic top coat, for roofs. They are warranted for up to 15 years. These fabrics are commonly used in tensile structures, in which fabric spans are self supported between cables or masts. The acrylic top coat blocks UV light and helps shed dirt and debris, keeping your roof looking better and lasting longer. Construction requirements for these fabrics are stringent to meet our engineering criteria.

**Upgrade roof fabric.** Our most common upgrade is to the roof fabric. For a nominal cost, you can get a heavier acrylic vinyl, top-coated structural fabric with a 15-year warranty.

**Roof and wall Insulation.** Rainier uses Low-E, the number one-selling reflective insulation in the country. Low-E is manufactured using a 1/4" polyethylene foam core with scrim reinforced double sided aluminum facings. It is non-toxic, containing no fiberglass; it provides an excellent vapor barrier, reduces condensation, is insect resistant and carries a Class A, Class 1 Fire Rating. You can increase or decrease your insulation, depending on where you plan to build your yurt.

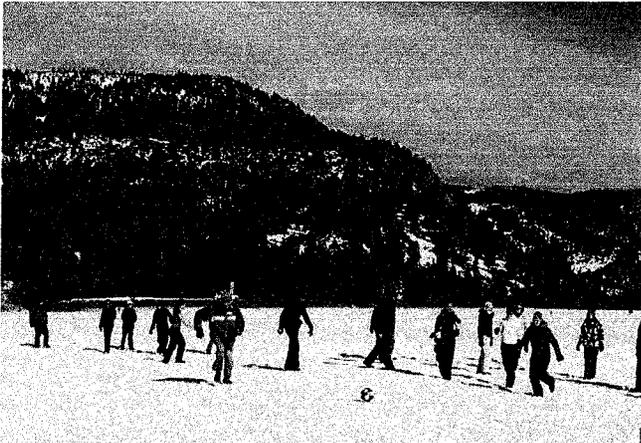
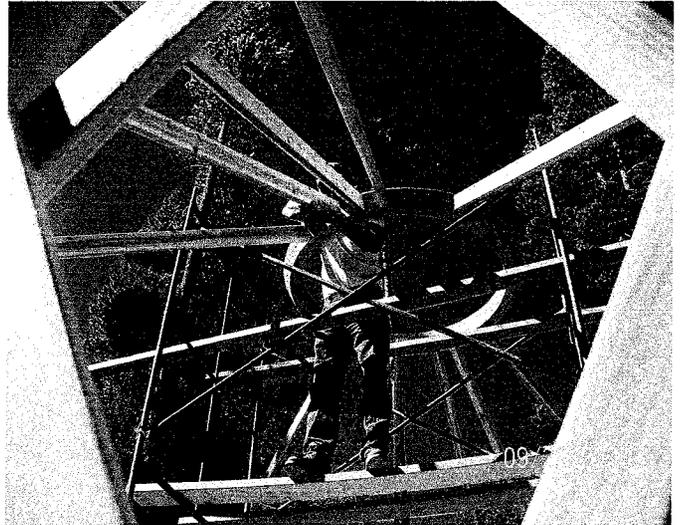
**Roof liner.** We use 100% cotton army duck in our Eagle model yurt. Because this is a natural fabric, it absorbs moisture, and then dries out naturally, preventing condensation inside your yurt. The Raven yurt uses a more typical, long life polyester liner. Both fabrics are mildew resistant and flame retardant.

**Roof cinching system.** Rainier yurts come with a simple, fool-proof method to cinch the roof to the wall. Our cord is easy to lace and keep clean. Both the Eagle and Raven yurt systems match grommets with the rafters and lattice for easy installation, better tensioning and attractive finished appearance. The Eagle model has an inside baffle (liner) at the roof line, for additional security from wind.

**Wall fabrics.** Rainier's yurt walls are made with premium grade fabrics with superior coatings and warranties. Our walls are cotton/polyester fabrics with acrylic top coats. The Eagle yurt features a top-and-bottom, two-toned outer wall using colors of your choice; the Raven uses one color-of-your-choice, for the walls. There are 16 different colors to choose from.

**Windows.** The Eagle model offers more options for window styles; windows in both the Eagle and the Raven yurts are precisely pre-designed and located to assure perfect fit and alignment.

**Bottom-of-wall attachment.** Rainier walls wrap and cinch under the deck to provide better wall tensioning and a secure seal against weather and insects. The fabric walls of other yurts are attached to the side of the deck.





## **END OF SEASON**



**Burnside Lk Rd end of winter season 2008**

## **ITEM 2**

July 1, 2008

Nathan Lishman  
Planner  
Amador County  
810 Court Street  
Jackson, CA 95642



Subject: Mitigation Measure 4.12 (c) COA's 140 and 169)

**Mitigation Measures**

4.12 c (COA 140 Amador County and 169 Alpine County): KMR will work with the Forest Service to develop and implement an instructional/interpretive program to inform Kirkwood visitors about sensitive resource issues at Kirkwood Lake.

Kirkwood Mountain Resort (KMR) has posted the sensitive resource poster at the Kirkwood Inn, The Lodge and the General Store. Laminated copies have been given to the USFS for posting at other forest service locations.

Please give me a call at (209) 258-7418 if you need any additional information and have any questions.

Thank you,

A handwritten signature in blue ink, appearing to read "Michael Richter".

Michael Richter  
Director, Planning and Environmental Affairs

# HELP US PROTECT AND PRESERVE OUR HIGH SIERRA LAKES

“When we try to pick out anything by itself we find that it is bound fast by a thousand invisible cords that cannot be broken, to everything in the universe.”

John Muir



## Riparian Ecosystem

When water quality is impacted, the fragile ecology is disturbed.

~ As the shoreline erosion progresses, it degrades aquatic habitat.

~ Impacted lake bottoms can kill aquatic vegetation.

~ Your presence, and that of domestic animals too near the lakes, may prevent wildlife from obtaining water.

~ Alpine lakes are important to visitors for their beauty, wildlife, wildflower displays, and drinking water.

~ The lakes support the micro climate providing nourishment for native land and aquatic species.



## Water Quality

Human and domestic animal waste too close to water sources does not allow for the filtering of contaminants before reaching water sources. Salt in urine attracts wildlife that in turn, causes defoliation of plants.

~ Deposit human waste in 6 to 8-inch cat holes at least 200 feet from water sources.

~ Carry your cleaning water to wash yourself and dishes at least 200 feet from water sources, using small amounts of bio-degradable soap.

~ “Pack it in; pack it out.”



## Protection of Shoreline

Campsites too close to water sources lead to erosion of shoreline vegetation.

This loss changes the Wilderness character.

~ Least impacting campsites are found, not made, at least 100 feet from water resources.

~ Keep campsites small to lessen impact.

~ Wilderness is impacted by moving rocks, plants or other natural objects, or by building a structure.

~ Leave your campsites cleaner than you find them.

**It is our responsibility and requires our personal commitment to protect the delicate ecological balance of the alpine jewels of the Sierra**



The USFS and Kirkwood Mountain Resort have partnered to raise awareness of the sensitive resources in high Sierra lakes such as Kirkwood Lake



## **ITEM 3**

ORDINANCE OF THE BOARD OF SUPERVISORS, )  
COUNTY OF xxxxxx, STATE OF CALIFORNIA, ) ORDINANCE NO. 2008-\_\_\_\_  
ESTABLISHING A NEW SECTION ENTITLED )  
“KIRKWOOD AREA WOOD BURNING DEVICE IMPACT )  
MITIGATION FEES” )  
\_\_\_\_\_ )

WHEREAS, the Final Environmental Impact Report certified for the 2003 Kirkwood Specific Plan includes the following mitigation measure:

Mitigation Measure 4.4 (a). The counties will enact an ordinance to reduce particulate emissions from wood burning within Kirkwood. The ordinance shall include the following standards:

- Incentives to eliminate or replace existing woodburning devices which do not comply with EPA Phase II Certification requirement.
- A requirement that all new residences previously approved for the installation of new woodburning devices incorporate EPA Phase II Certified requirements.
- A requirement that, upon installation of a new EPA Phase II Certified woodburning device, at least one noncompliant wood burning device be eliminated within the Kirkwood area.
- A prohibition on installation of new woodburning devices, including open hearth-style fireplaces, which do not comply with EPA Phase II Certification requirements, except that one noncompliant open hearth style fireplace will be allowed in the following locations:
  - a common lobby area located in a building containing more than four multi-family units,
  - a common lobby area located within lodges, hotels, motels, bed and breakfast accommodations, or a public recreation/meeting facility,
  - a bar/saloon or restaurant,
  - outdoors in the Village plaza area.

WHEREAS, the xxxxxx County Board of Supervisors has reviewed the EPA PM10 Emission Factors For Residential Wood Combustion table and hereby finds that future installation of wood burning devices within the Kirkwood Area will substantially and adversely affect air quality, and that unless such development contributes to the cost of reducing particulate matter emissions, particulate emissions in Kirkwood will exceed mandated maximum levels for public health, and

WHEREAS, the Board of Supervisors further finds and determines that there is a reasonable and rational relationship between the use of the wood burning device impact mitigation fee and the type of development projects on which the fees are imposed; and that the fees will be used to supplement the cost of removal of non certified wood burning devices in Kirkwood, that are necessary for the safety, health and welfare of the residential and non-residential users of the development projects within the Kirkwood area of xxxxxx County on which this wood burning device mitigation fee will be levied; and

WHEREAS, the wood burning device impact mitigation fees shall be used to create a wood burning device removal rebate to reduce particulate matter emissions related to new development because such development results in additional particulate matter thus creating the demand for the mitigation; and

WHEREAS, establishing fees for the purpose of obtaining funds for impact mitigation is statutorily exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15273 of the CEQA Guidelines, and

WHEREAS, the Board of Supervisors finds as follows:

1. The proposed ordinance is in conformance with the General Plan and Kirkwood Specific Plan in that it will mitigate the impacts of new wood burning devices on air quality in Kirkwood that may be adversely impacted by such development.
2. The proposed ordinance is in conformance with the particulate matter reduction plan that contains the necessary elements to meet State Law and County Ordinances.
3. The proposed ordinance will not be detrimental to the health, safety, peace, morals or general welfare of the County or its people. The proposed ordinance seeks to provide funding to augment other sources of federal, state and local highway funding for the purpose of constructing roadway improvements that are needed to maintain a reasonable level of service or provide for the safety of traffic using the state highways and other major roads.

NOW THEREFORE, the Board of Supervisors of the County of Alpine, State of California, does hereby adopt the particulate matter reduction plan, together with the Capital Improvement Plan therein.

BE IT FURTHER RESOLVED, the Board of Supervisors of the County of XXXX, State of California does hereby ordain that a new section of the Alpine County Code entitled “Kirkwood Area Wood Burning Device Mitigation Fees” as described in the attached Exhibit A is enacted.

**PASSED AND ADOPTED** this XXth day of XXXXXX 2008 by the following vote:

**Exhibit A**

**KIRKWOOD AREA WOOD BURNING DEVICE MITIGATION FEES**

**Section 1      Purpose and Intent.**

- A. In order to implement the goals and objectives of the County's general plan, for the County to meet its requirement to mitigate significant adverse impacts as set forth in the California Environmental Quality Act, and to mitigate impacts caused by new development within the County, public road impact mitigation fees may be necessary. The fees will be used only to provide incentives for the removal of wood burning devices which do not meet EPA Phase II standards. This chapter accomplishes this purpose by authorizing the imposition of a wood burning device impact mitigation fee on development projects to be used to mitigate the development projects' impact on air quality.
  
- B. This chapter is enacted pursuant to and shall be administered in compliance with Chapters 5, 6, 7, 8, and 9 (commencing with Section 66000) of the Government Code collectively entitled the "Mitigation Fee Act."
  
- C. The Board of Supervisors finds and determines that:
  - 1. New development projects will cause increased particulate matter (PM-10) emissions in Kirkwood, the funds generated by the wood burning device impact fee will help mitigate increased particulate matter (PM-10) emissions.
  - 2. Funds for construction and improvement of public roads used in part by traffic from new development projects are not sufficient, which will result in inadequate levels of service on regional highways and other major county roads serving the Kirkwood area. This chapter, while recognizing this problem, does not have the purpose of allowing or mandating the imposition of a wood burning device mitigation fee on those development projects which do not impact particulate matter emission and when such a fee is imposed, it may be imposed only to the extent necessary to mitigate said impact.
  - 3. The public health, safety, peace, morals, convenience, comfort, prosperity and general welfare of all County residents will be promoted by the adoption of this chapter, with the fee generating a portion of the funds necessary for incentives to reduce particulate matter emissions.

## **Section 2      Definitions.**

Words, when used in this chapter and in resolutions adopted thereunder, shall have the following meanings:

**"Development project"** means any project undertaken for the purpose of development which has the potential for impacting the County's air quality through particulate matter emissions.

**"Impact"** means physical injury and wear and tear or reduction in level of service.

**"Kirkwood area"** means the following areas of portions thereof located within Alpine County: the 2003 Kirkwood Specific Plan area as approved by Alpine County; and the Special Use Permit area for the Kirkwood Mountain Resort as approved by the Eldorado National Forest.

**"Non-certified wood burning device"** is a fireplace, wood heater, or pellet-fired heater or similar device burning solid fuel used for aesthetic or space-heating purposes that does not meet US EPA Phase II efficiency requirements

**"Wood burning device impact mitigation fee"** means a monetary exaction, other than a tax or assessment, which is charged by the County to the development project in connection with its approval for the purpose of offsetting the impact of particulate matter (PM-10) caused by the installation of a new wood burning devices. Wood burning device impact mitigation fees are referred to herein as the "fee."

**"Wood burning device"** is a fireplace, wood heater, or pellet-fired heater or similar device burning solid fuel used for aesthetic or space-heating purposes

## **Section 3      Prohibition on installation of woodburning devices**

The installation of new a wood burning device in Kirkwood is prohibited unless it meets the following requirements or is an exception under Section 4 of this code:

- A) The device shall meet U.S. EPA Phase II efficiency requirements set forth in Part 60, Title 40 Subpart AAA Code of Federal Regulation
- B) The device can only be installed in a dwelling unit which is permitted to have a wood burning device by the Kirkwood Specific Plan or subsequent use permit
- C) The device shall be legally installed according to the applicable local building code

## **Section 4      Exceptions on installations of a wood burning device.**

The installation of a new wood burning device that does not meet U.S. EPA Phase II efficiency requirements will be allowed in the following locations:

- A) A common lobby area located in a building containing more than four multi-family units,
- B) A common lobby area located within lodges, hotels, motels, bed and breakfast accommodations, or a public recreation/meeting facility,
- C) A bar/saloon or restaurant,
- D) A outdoors in the Village plaza area.

**Section 5**      **Establishment of a wood burning device impact fee.**

The Board of Supervisors shall establish and amend the fee by resolution which is a legislative act. Prior to approving or amending a fee, the Board of Supervisors shall hold at least one regularly scheduled public meeting at which oral or written presentations may be made. Notice of said meeting shall be given as provided in Government Code Section 66016. No new fee shall be imposed sooner than sixty (60) days following the Board's final action on the adoption of or increase in the fee [Section 66017 (a)].

**Section 6**      **Collection of wood burning device impact fee.**

- A. The fee authorized by this chapter shall be collected at the earliest time permitted by law. Except as set forth in subsection B of this section for residential development projects, that time shall be when an entitlement, such as a final subdivision map, rezoning, use permit, or building permit, is finally approved and the impact caused by the development project is known. The foregoing notwithstanding, a fee imposed on a development project at the entitlement stage does not foreclose the imposition of an additional fee if additional development is to be carried out on the site.
  
- B. Imposition of Fees on a Development Project.
  - 1. A fee imposed on a development project shall not be required to be paid until the earliest of the following dates: (a) when the dwelling is able to be occupied, meaning when public utility-supplied electrical power is connected to the dwelling, (b) when the final inspection is made and the certificate of occupancy is issued, or (c) a dwelling constituting all or part of the development project is occupied. "Final inspection" and "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition, or as said code may be amended from time to time.
  - 2. If the residential development project contains more than one single-family dwelling, the County, at the time of the imposition of the fee, may determine that the fee should be paid at an earlier date than set forth in subsection (B)(1) of this section as set forth in Government Code Section 66007.

**Section 7**      **Conditions for collection.**

- A. Unless specific findings allowing the imposition of fees in addition to the base fee for the reasons set forth in Section 5 are made for any development project, the base fee shall be imposed and added to the wood burning device mitigation fee fund to be expended on projects set forth in the Kirkwood particulate matter mitigation table without the approving body's being required to make additional findings.
- B. In establishing and imposing a fee as a condition of approval of a development project when findings are made pursuant to Section 5 the County shall follow the procedures set forth in Government Code Section 66001.

Said procedures are herein summarized:

- 1. In any action imposing a fee as a condition of approval of a development project, the County shall do all of the following:
  - a. Identify the purpose of the fee;
  - b. Identify the use to which the fee is to be put, including the identification of mitigation on which the fee is to be expended. In the alternative, the County may refer to its general plan;
  - c. Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
  - d. Determine how there is a reasonable relationship between the need for the public road and the type of development project on which the fee is imposed;
  - e. Determine how there is a reasonable relationship between the amount of the fee and the cost mitigation for particulate matter attributable to the development project upon which the fee is imposed.
- C. The County shall expend a fee for wood burning collected pursuant to subsection B of this section solely and exclusively for the purpose for which the fee was collected.

**Section 8**      **Wood burning device mitigation fee fund.**

Fees paid pursuant to this chapter shall be held by the Alpine County auditor in a separate wood burning device impact mitigation fee fund to be expended for the purpose for which they were collected. The County Auditor shall retain interest accrued on fees and allocate it to the accounts for which the fees were imposed. Upon receipt of a fee the County shall deposit, invest, account for, and expend the fee pursuant to Government Code Section 66006.

**Section 9**      **Establishment of a non certified wood burning device removal rebate.**

The removal of a non certified wood burning device will be eligible for a cash rebate from the wood burning device impact fee fund. Eligibility for a cash rebate for removal of a non certified wood burning device shall be defined as meeting the following requirements as determined by the local Building Official:

- A) The non certified device is legally installed under the Building Code
- B) The non certified device is capable of burning solid fuels as installed
- C) The non certified device has been either removed or permanently disabled

The Planning Department will review and approve applications for a wood burning device removal rebate. Rebates will be distributed on a first come first served basis based on meeting all the requirements outlined in this section. The Planning Department shall authorize the Auditor to make payment to the applicant upon confirmation that an application for a wood burning device removal rebate has been approved.. The applicant is responsible for all building inspection fees related to the application for wood burning device removal rebate.

**Section 10**      **Wood burning device impact fee- Unused funds.**

If after a period of five years there have been no approved applications for a wood burning device removal rebate the Planning Department shall use the remaining funds in the wood burning device impact fee fund for educational programs to promote reduction of particulate matter (PM-10) in the Kirkwood area.

**Section 11**      **Natural disaster fee exemption.**

No fee shall be imposed on the reconstruction of any residential, commercial, or industrial development project that is damaged or destroyed as a result of a natural disaster as declared by the Governor of the State of California.

**Section 12**      **Construction.**

This chapter, the capital improvement plan, and any resolution adopting or amending a fee and any subsequent amendments thereto shall be construed together.

**Section 13**      **Adjustment to or waiver of fees.**

A developer of any project subject to the fee described in this chapter may apply to the Board of Supervisors for reduction or adjustment to that fee, or a waiver of that fee, following the procedures set forth in Government Code Sections 66020 and 66021.

**Section 14    Severability**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid.

**Section 15    Effective Date**

This ordinance, with the names of the members of the Board of Supervisors voting for or against the same, shall become effective and in full force and effect at 12:01 a.m. on the thirtieth (30) day at passage, and before expiration of fifteen (15) days after its passage, shall be posted in a prominent location at the Board of Supervisor's chambers and remain posted thereafter for at least one week.