

FILE

**EAST SIDE HIGHWAY DISTRICT
ORDINANCE NO. 2011-01**

**AN ORDINANCE OF EAST SIDE HIGHWAY DISTRICT ESTABLISHING
REGULATIONS FOR PARKING ALONG FERNAN LAKE AND USE OF FIREWORKS
IN ORDER TO PROMOTE AND PROTECT THE HEALTH, SAFETY AND GENERAL
WELFARE OF CITIZENS OF THE COUNTY**

WHEREAS, the Board of Commissioners of East Side Highway District is the duly elected governing body of East Side Highway District, a political subdivision of the State of Idaho, having such powers and duties as are set forth in the Statutes of the State of Idaho

WHEREAS, Fernan Lake Road lies within the jurisdiction of East Side Highway District and dedicated to East Side Highway District for the use and enjoyment of the public;

WHEREAS, East Side Highway District Board of Commissioners desire to provide clearly articulated regulations regarding parking and fireworks,; and

WHEREAS, the Board of Commissioners have determined that regulations set forth herein serves the health, safety and welfare of the public;

NOW THEREFORE BE IT RESOLVED, by the Board of Commissioners of East Side Highway District as follows:

PURPOSE:

The purpose of this article is to promote and protect the general health, safety and general welfare and quality of life of the public, to protect public and private property.

DEFINITIONS:

Unless specifically modified by this article, the definitions contained in Idaho Code title 49, chapter 1 are adopted by reference as though fully set forth herein.

POSTED REGULATION: Any regulation displayed on a traffic control device permitting, regulating or prohibiting releasing fireworks from the public road or right of way; overnight camping along the public road or right of way; building fires within the public road or public right of way; and discharging firearms along the public road or right of way.

TRAFFIC CONTROL DEVICE: Any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

PROHIBITIONS:

A. It shall be unlawful for any person to release fireworks from the public road or right of way; to camp overnight along the public road or right of way; to build fires within the public road or public right of way; or to discharge firearms along the public road or right of way.

B. No person shall tear down, deface or otherwise alter any traffic control device containing a posted regulation without previous authorization from an appropriate local authority.

ENFORCEMENT:

A. General Provisions: A peace officer may issue an Idaho uniform citation for any of the infractions specified in this article.

B. Service Of Citation:

1. A peace officer may serve the infraction citation in accordance with the rules of procedure set forth in the Idaho Code or the Idaho infraction rules.

2. In the event the peace officer is unable to locate the owner or operator of the motor vehicle in violation of this article at the time the citation is issued in order to effect personal service, the peace officer may complete the uniform citation with as much information as is available and indicate on the citation that the defendant's copy was placed conspicuously on the offending vehicle. For purposes of alleged violations of this article, this alternative service will be considered the equivalent of having the officer sign the citation and personally deliver it to the registered owner of the motor vehicle.

EVIDENCE:

A. Registered Owners:

1. In any prosecution against the registered owner of a motor vehicle charging a violation of any regulation governing the camping under this article or other regulation of a local authority, proof that the particular vehicle described in the complaint was used for camping in violation of any such provision or regulation, together with proof that the defendant named in the complaint, was, at the time of using the vehicle for camping, the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

2. The presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the time and place where the violation occurred may be rebutted with evidence that the registered owner of the vehicle was not the person who parked or placed the vehicle at the time and place where the violation occurred. Such evidence may include, but shall not be limited to, a written lease or rental agreement for a particular vehicle described in the

complaint on the date and time of the violation, which lease or rental agreement includes the name and address of the person to whom the vehicle is leased or rented.

3. In the event that there is more than one registered owner of a vehicle cited for a violation of this article, the first named person on the registration shall be the person subject to prosecution for such violation. This person shall be subject to the presumption set forth in subsection A1 of this section, which may be rebutted as set forth in subsection A2 of this section.

4. For purposes of this subsection, proof that a person is the registered owner of a vehicle is not prima facie evidence that the registered owner has violated any other provision of law.

B. Lessees and Renters:

1. In any prosecution against the lessee or renter of a motor vehicle charging a violation of any regulation governing use of a vehicle for camping under this article or other regulation of a local authority, proof that the particular vehicle described in the complaint was used for camping in violation of any provision of this article or regulation, together with proof that the defendant named in the complaint was, at the time of camping, the lessee or renter of the vehicle, shall constitute prima facie evidence that the lessee or renter of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

2. The presumption that the lessee or renter of the vehicle was the person who parked or placed the vehicle at the time and place where the violation occurred may be rebutted with evidence that the lessee or renter of the vehicle was not the person who parked or placed the vehicle at the time and place where the violation occurred.

3. For purposes of this subsection, proof that a person is the lessee or renter of a vehicle is not prima facie evidence that the lessee or renter has violated any other provision of this law.

IMPOUNDMENT OF VEHICLES:

The sheriff's department is authorized, in its discretion, to remove and impound at such place as may be designated by the sheriff's department any vehicle found abandoned or parked in violation of any provision of this article. All costs and expenses of taking and keeping any such vehicle, including the costs and expenses of towing, keeping and storing, shall be paid by the owner of such vehicle and shall constitute a lien in favor of the county upon and against such vehicle.

PENALTIES:

A. A violation of this article shall be considered an infraction.

B. No violation of this article shall be considered a moving traffic violation, and no violation points shall be assessed for any violation of this article.

C. Violations of this article shall be punishable by a fine for an infraction as provided in rule 9(b) of the Idaho infraction rules or in such other rule as may be adopted and promulgated from time to time by the Idaho Supreme Court.

EFFECTIVE DATE:

This ordinance shall take effect and be in full force and effect upon publication in a newspaper of general circulation in Kootenai County, as prescribed by law.

NOW THEREFORE BE IT RESOLVED, that on the 5th day of December, 2011, the commissioners of the East Side Highway District by motion hereby adopts this said Ordinance 2011-01, in which the following roll call vote was held:


Chairman Sverdsten Aye


Commissioner Fillios, Aye

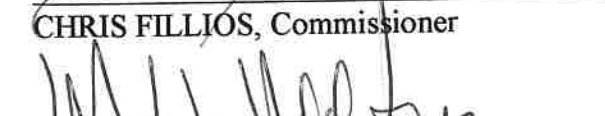
Commissioner Addington, Aye

The majority of the vote taken at the East Side Highway District Board meeting on December 5, 2011 was in favor; therefore, the **Ordinance 2011-01** was unanimously approved.




TERRY SVERDSTEN, Chairman


CHRIS FILLIOS, Commissioner


MARK ADDINGTON, Commissioner

ATTEST:


ANGELA SIEVERDING, DISTRICT CLERK