
ORDINANCE 09-02

INTRODUCED BY:

Councilperson Clark

Councilperson Neely

**ORDINANCE OF THE CITY COUNCIL
OF
THE CITY OF CASTLE PINES NORTH
FOR THE REGULATION OF TRAFFIC AND PARKING**

WHEREAS, the City of Castle Pines North (the "City") is a statutory municipality incorporated and organized pursuant to the provisions of sections 31-2-101, *et seq.*, C.R.S.; and

WHEREAS, pursuant to section 42-4-111(a), the City Council is authorized to regulate or prohibit the stopping, standing or parking of vehicles and regulate traffic by means of police officers or official traffic control devices; and

WHEREAS, sections 31-16-202 and 42-4-110(1) authorizes the City Council to enact an ordinance that adopts in whole or in part the State's model traffic code; and

WHEREAS, section 31-2-108(1)(b) provides that a county must provide traffic enforcement services for a newly incorporated city for a period that lasts until the ad valorem taxes for rendering such services are collected and become available or not longer than one year from the date of the City's incorporation; and

WHEREAS, Douglas County, Colorado has been providing traffic enforcement based upon the State of Colorado's 2003 Model Traffic Code and as modified by Ordinance No. 0-003-002;

WHEREAS, the City was incorporated on February 12, 2008; and

WHEREAS, the City Council wishes to adopt this ordinance establishing consolidated parking and traffic enforcement and establishing the current authorities and priorities thereof on which the City will rely;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO, THAT:

PART I: GENERAL

Purpose. The purpose of this ordinance is to promote the general public welfare and safety by imposing and enforcing the reasonable and necessary traffic and parking restrictions in the City.

Definitions. Unless otherwise specified or the context otherwise requires, the following words shall have the following meanings throughout this Ordinance.

“Authorized Emergency Vehicle” means such vehicles of the fire department, police vehicles, ambulances, and other special-purpose vehicles as are publicly owned and operated by or for a governmental agency to protect and preserve life and property in accordance with state laws regulating emergency vehicles; said term also means such privately owned vehicles as are designated by the state motor vehicle licensing agency, necessary to the preservation of life and property, to be equipped and to operate as emergency vehicles in the manner prescribed by state law.”

“Automobile” means any motor vehicle.

“City” means City of Castle Pines North, Colorado.

“Law Enforcement Officers” shall mean law enforcement personnel of the City or any entity with whom the City contracts to provide law enforcement services, the Douglas County Sheriff’s Office and the Colorado State Patrol are authorized to implement and enforce the provisions of this Ordinance.

“Official Traffic Control Device” means any sign, signal, marking and/or device, placed or displayed by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

“Owner” means a person who holds the legal title of a vehicle, or, if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagee shall be deemed the owner for purposes herein. The term also includes parties otherwise having lawful use or control or the right to use or control vehicle for a period of thirty (30) days or more.

“Park” or “Parking” means the standing of a vehicle, whether occupied or not, other than very briefly for the purpose of and while actually engaged in loading or unloading property or passengers.

“Private Property” shall mean any property not owned by the City of Castle Pines North, Colorado for which a request for a parking restriction designation is made and accepted pursuant to section 42-4-1210, C.R.S.

“Stand” or “Standing” means the halting of a vehicle, whether occupied or not, other than momentarily for the purpose of and while actually engaged in receiving or discharging passengers.

“Stop” or “Stopping” means, when prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic

or in compliance with the directions of a Law Enforcement Officer or Official Traffic Control Device.

“Vehicle” means any device which is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks.

Enforcement. This ordinance shall be enforced by the law enforcement personnel of the City or any entity with whom the City contracts to provide law enforcement services, the Douglas County Sheriff’s Office and the Colorado State Patrol.

Violation. It shall be unlawful for any person to violate any provision of this ordinance or to disobey any Official Traffic Control Devices referenced herein. In any prosecution for any violation of this ordinance wherein the identity of violator is in question (such as parking citations issued when the driver of the vehicle is not present), there shall be a rebuttable presumption that the violation was committed by the Owner of the motor vehicle in which the violation occurred.

Disposition of Fines and Forfeitures. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ordinance shall be paid into the treasury of the City of Castle Pines North, Colorado.

Surcharges. In addition to the fines and penalties prescribed in this Ordinance, any person convicted of a violation of this Ordinance shall be subject to the statutory surcharges of Ten Dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund, and Twelve Dollars (\$12.00) for the Colorado Traumatic Brain Injury Trust Fun. These surcharges shall be paid to the clerk of court by each person convicted of violating this Ordinance. The clerk shall transmit the moneys to the respective funds in accordance with section 30-15-402(2), C.R.S.

Scope. This Ordinance shall apply to every street, alley, sidewalk, driveway, park, and to every other public way or public place, or public parking area, or private property as specifically designated herein, within the incorporated territory of the City of Castle Pines North, Colorado and to all other areas designated herein. This Ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.

Severability. If any part or parts of this Ordinance are for any reason held to be invalid, such provision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Castle Pines North, hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Repeal. All ordinances and/or resolutions or parts or ordinances and/or resolutions inconsistent with provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Citation to State Statutes. All references to provisions of the Colorado Revised Statutes that contain counterpart provisions to the adopted code as contained in this Ordinance shall be deemed property references to the counterpart provisions of the adopted Code and this

Code. When enforcing the adopted code, the City's law enforcement officers and the City's prosecuting attorneys and officials are authorized to cite to equivalent counterparts contained in the State statutes. Any citation by such persons to a State statute containing the substantially same or identical provisions as those found in counterpart sections of the adopted code is equivalent to a citation to the relevant provisions of the adopted code for purposes of notifying, designating, charging, prosecuting and penalizing violations of the adopted code pursuant to this Ordinance.

PART II: TRAFFIC

Section 1. Adoption. Pursuant to sections 42-4-110(1) and 30-15-401(1)(h), C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2003 edition of the "Model Traffic Code for Colorado," promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of the Model Traffic Code related primarily to comprehensive traffic control regulations. The purpose of this Ordinance is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and nation. Copies of the Model Traffic Code adopted herein are on file in the office of the Clerk of the City of Castle Pines North, Colorado, and may be inspected during regular business hours.

Section 2. Deletions. The 2003 edition of the Model Traffic Code is adopted as if set out in length save and except for the following articles and sections which to be inapplicable to the City of Castle Pines North, Colorado and therefore expressly deleted:

A. Section 103(2) and (2) (b) Scope and Effect of the Model Traffic Code are repealed in their entirety and reenacted to provide:

"(2) The provisions of this Code relating to the operation of the vehicles and the movement of pedestrians shall apply to every street, alley, sidewalk, driveway, park and to every other public way or public place or public parking area within or outside of the corporate limits of the municipality, the use of which the municipality has jurisdiction and authority to regulate except:

(b) Sections 1401, 1402, 1403 of the Code pertaining to reckless driving, careless driving and eluding a police officer shall apply to all land, areas, property (including private) within or outside the corporate limits of the municipality, the use of which the municipality has jurisdiction and the authority to regulate."

B. Section 108(2) Public Officers to Obey Provisions, is amended by inserting the following phrase after "The driver of an authorized emergency vehicle" in the sections first sentence:

"or sworn police officers using bicycles while in the performance of an officer's duties".

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- C. Section 109.5(2) Neighborhood Electric Vehicles is repealed in its entirety and reenacted to provide:
- “No person shall operate a neighborhood electric vehicle as defined in section 42-1-102(60.5) C.R.S. upon a highway.”
- D. Section 114(4), Removal of Traffic Hazards, is enacted to provide:
- “If the City is not reimbursed within forty-five (45) calendar days after the property owner has been provided a demand for payment, the amount due shall become a lien against the property and recorded and collected in accordance with the applicable law.”
- E. Section 236(2) (b) Child Restraint Systems, is amended by deleting the phrase “but less than sixteen years of age” and adding the word “or” after such deletion.
- F. Section 236(2)(b)(I) Child Restraint Systems is amended by addition of the phrase at the beginning of the section to read as follows:
- “Except as otherwise provided in subsection (1.5) of this subsection (b).
- G. Section 236(2)(b)(I.5) Child Restraint Systems is enacted to provide:
- “If the child is at least four (4) years of ages but less than six (6) years of age and is less than fifty-five inches tall and if the child is transported in a vehicle equipped with only a two point lap belt system available for the child, the child shall be properly restrained with a lap belt.”
- H. Section 236(2) (b) (II) Child Restraint System is amended by deleting the phrase “but less than sixteen years of age” and adding the word “or” after such deletion.
- I. Section 614(2) Designation of Highway Maintenance – Increase in Penalties is amended by deleting the word “sing” in the section’s fourth sentence and replacing it with the word “sign”.
- J. Section 615(3) School Zones – Increase in Penalties is amended by inserting the word “apply” after the phrase “This section does not”.
- K. Section 703 Entering Through Highway – Stop or Yield Intersection, is amended by the addition of the following:
- “(a) The provisions of this section shall apply to commercial property used by the general public and private residential complexes sharing common tenant and guest parking facilities where, upon the property owner’s request, the City posts a yield or stop sign. The City’s traffic engineer or his designee shall choose the sign’s location.

(b) By separate agreement, the owner of the commercial property or private residential complex shall pay the City for the purchase, erection, and maintenance of the yield or stop sign."

- L. Section 711, Driving on Mountain Highways, is deleted in its entirety.
- M. Section 1101(1) and (2) Speed Limits, are repealed in their entirety and re-enacted to provide:
- "(a) No person shall drive a vehicle on a traveled roadway, street or highway within this municipality at a speed greater than the posted limit and in no event greater than forty-five miles per hour (45 mph).
- (b) Except where a special hazard exists that requires a lower speed, and except as otherwise provided herein, the following speeds shall be lawful:
- (1) Twenty-five miles per hour (25 mph) in any business district;
 - (2) Thirty miles per hour (30 mph) in any residential district;
 - (3) Fifteen miles per hour (15 mph) in alleys;
 - (4) Any speed not in excess of the posted speed limit designated by an official traffic control device."

N. Section 1101(5) Speed Limits, is amended by deleting the phrase "alleged reasonable and prudent speed" and replacing it with the phrase "maximum lawful speed limit."

O. Section 1102(1) Altering of Speed Limits is amended by deleting the phrase "reasonable and safe speed" and replacing it with the phrase "maximum lawful speed limit".

P. Section 1102(3) Altering of Speed Limits is amended by deleting the phrase "reasonable safe speed" and replacing it with the phrase "maximum lawful speed limit".

Q. Section 1204(2) (b) Stopping, Standing, Parking is amended by deleting the phrase "fifteen feet" and replacing it with the phrase "seven and one-half feet".

S. Section 1204(b) Stopping, Standing and Parking is enacted to provide:

"No person shall stop, stand, or park any vehicle upon any private property or upon the grounds of any public school without the consent of the owner, lessee or person in legal possession of such property".

T. Section 1205(4) parking at Curb or Edge of Roadway, is enacted to provide:

“On those streets which have been designated and signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.”

- U. Section 1209 Owner Liability for Parking Violations is amended by the addition of the following:

“In any prosecution charging a violation of any provision of this Part 12 governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute an evidentiary prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.”

- V. Section 1210 Designated Areas on Private Property for Authorized Vehicles - County -Unincorporated Areas, is deleted in its entirety.

- W. Section 1402(2) Careless Driving-Bodily Injury or Death, is repealed in its entirety.

- X. Section 1409(1), (2), (3), (5) and (6) Compulsory Insurance, are amended by deleting the phrase “sections 10-4-705 and 10-4-716 C.R.S.” in each subsection and replacing it with the word “law”.

- Y. Section 1416 Minor Driver Restrictions is enacted to provide:

“(a) Occupants in motor vehicles driven by persons under seventeen years of age shall wear set belts or be secured in a child restraint system as required by Sections 236(2) (a) and 237.

(b) No more than one passenger shall occupy the front seat of the motor vehicle driven by a person under seventeen years of age, and the number of passengers in the back seat of such vehicle shall not exceed the number of seat belts.

- Z. Section 1702 Counties - Traffic Offenses classified - Schedule of Fines, is deleted in its entirety.

- AA. Section 1707(2) Summons and Complaint or penalty assessment, is amended by repealing and re-enacting the section’s first sentence to provide:

“If a police officer issues and serves a summons and complaint to appear in municipal court upon the defendant as described in subsection (1) of this section, and defect in form in such summons and complaint, to include but not limited to, the name and address of the defendant, the license number of the vehicle involved, if any, and the

number of the defendant's driver's license, if any, the site and approximate location thereof, and the date the summons and complaint is served on the defendant may be cured by amendment at any time prior to trial in accordance with Rule 204(a) of the Colorado Municipal Court Rules."

BB. Section 1710(3) Failure to Pay Penalty for Traffic Offenses, is amended by adding the phrase "or Rule 248(b) of the Colorado Municipal Court Rules" after the phrase "in section 18-1-405, C.R.S."

CC. Section 1710(5) Failure to Pay Penalty for Traffic Offenses, is enacted to provide:

"(a) Upon the date and at the time for appearance, if the defendant fails to appear and if the prosecution proves to the satisfaction of the Judge that venue is property and that defendant was served a summons and complaint at least ten (10) calendar days prior to the appearance date, the Judge may, for traffic offenses of not more than four (4) points (except for compulsory insurance), or a six (6) point offense of speeding, not more than twenty-four (24) miles over the posted speed limit, enter judgment and impose sentence, including costs against the defendant.

(b) Failure to appear on any date scheduled for trial shall constitute cause for entering a default judgment for all traffic offenses of not more than four (4) points (except for compulsory insurance) or a six (6) point offense of speeding not more than twenty-four (24) miles over the posted speed limit, and upon entry of such default, the Judge may impose sentence including costs against the defendant.

(c) On the grounds of excusable neglect, the Judge may by motion of the defendant set aside an entry of default and the judgment entered thereon. Such motion must be filed with the Court within seven (7) calendar days of the entry of judgment for such matter. A motion under this section shall not affect the finality of a judgment or suspend its operation.

(d) Any default entered in accordance with this section shall be certified to the State Motor Vehicle Division for enforcement.

(e) The Court shall not issue a warrant for the arrest of any defendant against whom a default is entered and upon which a sentence is imposed thereon."

PART III: PARKING

The restrictions, procedures and penalties provided in this Part III shall be in addition to those in Part II.

Section 1. Private Property Parking Restrictions

Private Property owners may request and the City may accept designation of specified areas for use only by authorized vehicles to section 42-4-1210, C.R.S. Upon acceptance in writing by the City Council, the owner of such private property is required to clearly mark the area with Official Traffic Control Devices, at his/her own expense. Such areas are listed in Exhibit B. Violations of such postings shall be a violation of this Part III.

Section 2. **Public Property Parking Restrictions**

The Director of Public Works shall have the authority to direct the installation of any "traffic control device" which is warranted in accordance with the Manual on Uniform Traffic Control Devices, as revised. Violations of such postings shall be a violation of this Part III.

PART IV: IMPOUNDS

In addition to the penalties and procedures set forth hereinabove, the Sheriff, or any person acting under his direction, is authorized to impound Vehicles, by means of towing or installation of any immobilizing device or "boot" under the following circumstances:

(a) if the registered Owner of said Vehicle has been issued three or more traffic or parking citations that remain outstanding. For purposes of this Part IV, "outstanding" shall mean that the Owner has: failed to pay the fine or penalty imposed under said citation by the date set forth in the citation and, without prior authorization, failed to appear in court on the date set forth in the citation; or

(b) if the Vehicle has been abandoned on a public right-of-way. For purposes of this Part IV, a Vehicle is deemed "abandoned" if it is inoperative (regardless of registration status) or if, after an abandoned vehicle notice has been placed on the Vehicle requiring that it be moved, the Vehicle has not been moved within seventy-two (72) hours; or

(c) if the Vehicle is illegally parked, for any length of time: (1) in a manner that obstructs any roadway or emergency access; (2) in a fire zone or in front of a fire hydrant; (3) in a manner that prevents any other Vehicle from being able to move; (4) in any area marked by appropriate signage as a tow away zone; or (5) in any other circumstance where the sheriff or a person acting under his authorize determines that it would be unsafe for the Vehicle to remain illegally parked.

The cost of recovering an impounded Vehicle shall be the responsibility of the Owner of the Vehicle and shall be in addition to any other fines or penalties that may otherwise apply.

PART V: CERTIFICATION

The Clerk for the City of Castle Pines North, Colorado shall certify the passage of this Ordinance and shall have on file copies of this Ordinance and the adopted Model Traffic Code available for inspection by the public during regular business hours.


PART VI: EFFECTIVE DATE

This Ordinance shall be effective thirty (30) days after publication after adoption on second reading and shall apply to traffic offenses occurring or committed on or after said date.

INTRODUCED, READ AND PASSED, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINE NORTH, COLORADO the 14th day of January, 2009.

READ, PASSED AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO, the 25th day of February, 2009.

CITY OF CASTLE PINES NORTH



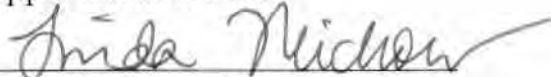
Maureen A. Shul, Mayor

ATTEST:



Janie Berry, City Clerk


Approved as to form:



Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Castle Pines North City Council on January 14, 2009; published in full in the Douglas County News-Press; and finally passed and adopted by the City Council on February 25, 2009.



Janie Berry, City Clerk