

**ORDINANCE NO. 09-21**

**INTRODUCED BY:**

**Councilperson Clark**

**Councilperson Coppola**

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF CASTLE PINES NORTH  
ESTABLISHING A MUNICIPAL COURT SYSTEM  
FOR THE CITY OF CASTLE PINES NORTH, COLORADO,  
AND PROVIDING FOR ITS FUNCTIONS AND DUTIES**

WHEREAS, the Colorado Revised Statutes provide in Section 104, Article 10, Title 13, C.R.S., the authority for the City of Castle Pines North to establish a Municipal Court System; and

WHEREAS, the City of Castle Pines North shall set forth its functions and duties by ordinance; and

WHEREAS, the City Council deems it necessary and appropriate for the health, safety and welfare of the residents and the visitors of the City of Castle Pines North to establish a Municipal Court System to hear and try alleged violations of the City ordinance provisions and the Model Traffic Code.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castle Pines North, Colorado:**

**Section 1. Establishment of Municipal Court.** The City Council hereby establishes the City of Castle Pines North Municipal Court System as follows:

**Article 1**

**Municipal Court**

*General*

**Section 1. Created.**

There is hereby created and established a qualified Municipal Court of record as set forth in C.R.S., Section 13-10-102(3). The presiding Municipal Judge shall provide for the making of a verbatim record of all Municipal Court proceedings by either an electronic device or stenographic means. The Municipal Court shall abide by all rules of

Court set forth by the Supreme Court of the State and the statutes enacted by the General Assembly of the State of Colorado.

## **Section 2. Jurisdiction.**

The Municipal Court shall have original jurisdiction over all cases arising under the ordinances of the City.

## **Section 3. Municipal Judge.**

(1) Appointment. In accordance with Section 13-10-105 (1)(a), C.R.S., biannually, commencing in January, 2010, the City Council, by resolution, shall appoint a presiding Municipal Judge for a two (2) year term of office. The term shall expire at the first regular City Council meeting in January of each even-numbered year. Any appointment of a Municipal Judge prior to January, 2010, shall be for an interim period.

(2) Qualifications. The presiding Municipal Judge shall be an attorney currently licensed to practice in the state, in good standing with the Supreme Court of the State and have a minimum of five (5) years' experience in the active practice of law at the time of appointment.

(3) Compensation. In the resolution appointing the presiding Municipal Judge, the fixed annual compensation of the Municipal Judge shall be established, along with compensation for assistant or substitute judges.

(4) Assistant Municipal Judges. The presiding Municipal Judge, with the advice and consent of the City Council, may appoint assistant judges as necessary to conduct the business of the Municipal Court.

## **Section 4. Removal of Judge.**

A Municipal Judge may be removed by City Council during his or her term of office only for cause. A Municipal Judge may be removed for cause for:

- (1) Conviction of a felony or any other crime involving moral turpitude;
- (2) Any disability that renders the Municipal Judge unable to perform the essential job functions;
- (3) Willful or persistent failure to perform his or her duties; or
- (4) Being a habitual intemperate.

## **Section 5. Municipal Court Clerk.**

(1) Appointment. The Municipal Judge shall appoint a Clerk of the Municipal Court.

(2) Qualifications. The Municipal Judge shall establish qualifications for the Municipal Court Clerk. The bond required under Section 13-10-109, C.R.S., as amended from time to time, is waived by the City.

(3) Compensation. The compensation for the Municipal Court Clerk shall be determined by City Council as provided in the annual budget.

## **Article II**

### **Procedures**

#### **Section 1. Applicable Statutes.**

Except as modified by ordinance of the City Council, the Municipal Court shall be governed by the applicable statutes of the State of Colorado as amended and modified from time to time.

#### **Section 2. Powers.**

The Municipal Court and the presiding Municipal Judge thereof shall have all the express and implied judicial powers relating to the operation of the Court, including but not limited to the power to:

- (1) Impose fines and penalties of incarceration;
- (2) Suspend such fines and penalties;
- (3) Impose and enforce deferred sentences and deferred judgments;
- (4) Substitute community service, counseling, education or other consideration as conditions of sentencing or in lieu of fines and/or jail time;
- (5) Enter default judgments where appropriate;
- (6) Enforce subpoenas issued by any board, commission, officer or other body of the City authorized by law or ordinances to issue subpoenas, and by imposing fines and penalties for failure to comply with any such subpoena;
- (7) Punish contempt of Court to enforce Court orders;
- (8) Summon and compel the attendance of jurors;
- (9) Order and enforce by contempt the abatement of nuisances and violation of zoning regulations; and

(10) Perform other responsibilities prescribed by the ordinances of the City.

### **Section 3. Summons and Complaint.**

A summons and complaint for Municipal Court may be issued by a peace officer or code enforcement officer for the City for an offense constituting a violation which was committed in the peace officer's or code enforcement officer's presence, or, if not committed in their presence, when the peace officer or code enforcement officer has reasonable grounds for believing that the offense was committed in fact and that the offense was committed by the person charged.

### **Section 4. Court Sessions.**

(1) There shall be regular sessions of the Municipal Court for arraignments, trials and other required hearings.

(2) The Municipal Judge may authorize special sessions of the Municipal Court at any time if, in the discretion of the Municipal Judge, such special sessions are necessary to conduct Municipal Court business.

### **Section 5. Court Costs.**

The Municipal Court is empowered, in its discretion, to assess the following costs against any defendant who is found guilty of violating any of the ordinances of the City or against any defendant who is granted a deferred prosecution or deferred sentence. The defendant's obligation to pay such costs is separate from and in addition to the obligations to pay any fines or penalties imposed. The Municipal Judge shall impose the following fees and costs as applicable:

(1) Court Costs. Court costs of thirty-five dollars (\$35.00) shall be assessed against every defendant who enters a plea of guilty or no contest to any ordinance violation before the Municipal Court or who fails to appear to a scheduled trial; Court costs of fifty dollars (\$50.00) shall be assessed against every defendant who is guilty after a trial in the Municipal Court to any ordinance violation.

(2) Witness fees. A witness fee of five dollars (\$5.00) per witness per day or part of a day in which the witness is actually in Municipal Court, up to a maximum of fifty dollars (\$50.00), plus mileage set at the rate established by the Municipal Judge for each mile actually and necessarily traveled from the witness' residence to the Municipal Court may be assessed, but no City officer or employee may receive such witness fee. A witness fee of five dollars (\$5.00) per appearing witness may be assessed against any defendant who fails to appear to a scheduled trial.

(3) Bench warrant fee. Fifty dollars (\$50.00) per warrant issued plus any costs incurred for transporting the defendant from his or her place of arrest to the City.

(4) Probationary or other services. Twenty dollars (\$20.00) per month for probationary treatment services for the defendant or useful public service by the defendant, plus any actual costs for receipt of any services the defendant may be required to receive in accordance with the order of the Municipal Court.

(5) Jail costs. Actual per-day cost charged to the City by the Douglas County Jail or Douglas County Sheriff for each day a defendant is sentenced to jail.

(6) Late fee/time payment fee. A late fee of twenty-five dollars (\$25.00) shall be added for any payment that is not made within the time allowed by the Municipal Court. A time payment fee of twenty-five dollars (\$25.00) shall be added for any payment for which the Municipal Court, in its discretion, grants a stay of execution.

(7) Surcharges. In accordance with Ordinance No. 09-02, a surcharge 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 Fund shall be assessed against any person convicted of an ordinance violation.

(8) Other costs. Other costs may be assessed as deemed appropriate by the Municipal Court.

#### **Section 6. Restitution.**

The Municipal Judge is empowered to order a defendant who is found guilty of violating any of the ordinances of the City or who is granted a deferred prosecution or deferred sentence to make restitution or reparation, or both, to the victim of the defendant's conduct for the damages or injury that was sustained.

#### **Section 7. Probation.**

The Municipal Judge is empowered to place a defendant who is found guilty of violating any of the ordinances of the City or who is granted a deferred prosecution or deferred sentence on probation for a period not to exceed one (1) year. Such probation may be supervised or unsupervised and may be made conditional under the successful completion of reasonable terms and conditions. Revocation of probation shall occur in the same manner as revocation of a deferred prosecution or deferred sentence. The Municipal Judge is empowered to utilize such probationary services as are provided by the City Council or with which the Municipal Court may contract at no cost to the City.

#### **Section 8. Parental Responsibility.**

Whenever a minor under the age of eighteen (18) years residing or living with his or her parents is convicted of a violation of a municipal ordinance for which the Municipal Court imposes a fine, restitution or Court fees or costs, the parents of the minor shall be jointly responsible for payment of such fine, restitution or Court costs or fees. It shall be

an affirmative defense to the obligation created by this Section if the parent demonstrates to the Municipal Court that, at the time of the defense, either:

(1) The parent did not have lawful custody of the minor;

(2) The minor was not residing with the parent;

(3) The minor is emancipated. For purposes of this Section only, the term *emancipated minor* means a minor over fifteen (15) years and under eighteen (18) years of age who has, with real or apparent assent of his parents, demonstrated his or her independence from his or her parents in matters of care, custody and earnings. The term may include but shall not be limited to any such minor who has the sole responsibility for his or her own support, who is married or who is in the military.

### **Section 9. Setting of Fines.**

The Municipal Judge shall have the authority and discretion to set fines for ordinance violations by adopting a fine schedule by judicial order that conforms to the following:

(1) Where an ordinance expressly establishes a minimum or maximum fine for a first violation, the Municipal Judge shall adhere to such stated minimum or maximum fine for a first violation unless the Municipal Judge finds that extenuating or mitigating circumstances beyond the reasonable control of the defendant existed which would render such minimum fine inequitable or unfair.

(2) Where an ordinance expressly establishes a minimum or maximum fine for a second violation or for subsequent violations, the Municipal Judge shall adhere to such stated minimum or maximum fine for the second violation or subsequent violations unless the Municipal Judge finds that the defendant was without knowledge of the existence of the violation and such absence of knowledge was not due to the defendant's intentional disregard or willful ignorance.

### **Section 10. Appeals.**

(1) Appeals from the Municipal Court shall be to the Douglas County District Court.

(2) Costs. For all appeals in the Municipal Court to the Douglas County District Court, the Municipal Court Clerk shall require a transcript deposit according to the following schedule:

(a) One-hundred-fifty dollar (\$150.00) transcript deposit for a trial to the Municipal Court; and

(b) Two-hundred dollar (\$200.00) transcript deposit for a trial to a jury.

The Municipal Court Clerk shall charge the transcript preparation fee and photocopy cost prescribed by the Supreme Court of Colorado. The transcript deposit shall be applied against the preparation cost of a transcript. If the preparation cost of the transcript is less than the transcript deposit, then the balance will be refunded to the requesting party by the Municipal Court Clerk. If the preparation cost of the transcript is more than the transcript deposit, the Municipal Court Clerk shall require the requesting party to pay the additional cost to prepare the transcript. The Municipal Judge may waive the transcript deposit and the transcript preparation cost in instances of proven indigence.

**Section 2. Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

**Section 3. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after publication following final adoption.

**INTRODUCED, READ, AND PASSED, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO the 10th day of September, 2009.**

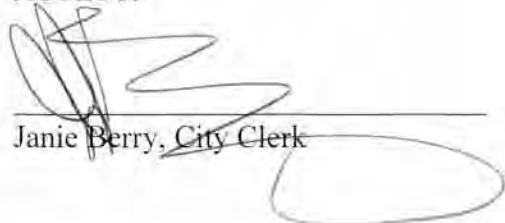
**READ, AND PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO the 12th day of November, 2009.**

**CITY OF CASTLE PINES NORTH:**




Maureen A. Shul, Mayor

ATTEST:

  
Janie Berry, City Clerk

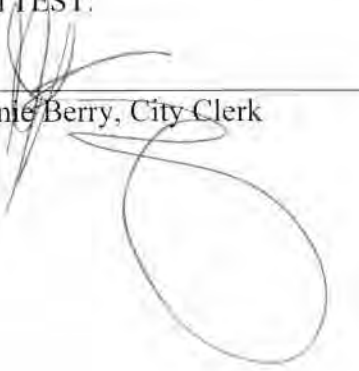
Approved as to form:

  
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 September 10, 2009; published in full in the *Douglas County News-Press*; and finally passed and adopted by the City Council on November 12, 2009 following a duly notice public meeting and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on November 26, 2009.

ATTEST:

  
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Janie Berry, City Clerk