

ORDINANCE NO. 09-22

INTRODUCED BY:

Councilperson Clark

Councilperson Coppola

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH ADOPTING CERTAIN GENERAL HEALTH, SAFETY AND WELFARE RELATED ORDINANCES OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, COLORADO, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF**

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

WHEREAS, in furtherance of the public health, safety and welfare of the inhabitants of the City, the City Council desires to enact by ordinance seven specific ordinances previously adopted by the Board of County Commissioners of Douglas County, Colorado (the "BOCC"), as authorized pursuant to Section 31-16-202, C.R.S.; and

WHEREAS, certain of the ordinances previously adopted by the BOCC reference general or specific statutory authority under Article 11 (County Powers and Functions) and Article 15 (Regulation under Police Power), Title 30, C.R.S.; and

WHEREAS, this Ordinance is adopted pursuant to the City's general police power regulations; and

WHEREAS, the six health, safety and welfare related ordinances previously adopted by the BOCC that are the subject of this ordinance are:

<u>Ord. No.</u>	<u>Title</u>
<b>996-002</b>	Requiring the Registration of Persons who Engage in Door-to-Door Selling of Merchandise or Goods and the Delivery thereof
<b>001-003</b>	Prohibiting the Possession of Cigarettes and Tobacco Products by Minors
<b>002-001</b>	Prohibiting Solicitation of Occupants of Vehicles in Roadways
<b>003-001</b>	Restricting Open Fires and Open Burning in the Unincorporated Areas of Douglas County

- 007-001** Imposing a Curfew for Minors who have not Reached their Eighteenth Birthday; Making it Unlawful for any Parent, Guardian, or Other Person having Legal Custody of such Minor to Knowingly Allow or Permit such Minor to Violate said Curfew; Prescribing the Penalties for Violation thereof; Providing for Enforcement; Providing for the Disposition of Fines; and Repealing all Ordinances and Resolutions in Conflict therewith
  
- 007-003** Requiring the Removal of Snow and Ice from Sidewalks within 24 Hours of the Cessation of Snowfall, Rescinding and Replacing Ordinance O-997-006; and

WHEREAS, the ordinances identified above are contained within a document titled “*Douglas County Board of County Commissioners – Miscellaneous Health, Safety and Welfare Ordinances*” (the “Code”); and

WHEREAS, the Code was “published” by the City of Castle Pines North Community Development Office, as that term is defined at Section 31-16-201(5), C.R.S., in 2009; and

WHEREAS, Section 31-16-201, *et seq.*, C.R.S., as amended, permits the adoption by reference of the Code upon notice and hearing as provided in Section 31-16-203, C.R.S.; and

WHEREAS, copies of the Code are available at the City of Castle Pines North Community Development Office and the office of the City Clerk, 7437 Village Square Lane, Suite 210, Castle Rock, Colorado 80108 for review and inspection by the public between the hours of 8:00 o’clock a.m. and 4:30 o’clock p.m., Monday through Friday, holidays excepted; and

WHEREAS, the City of Castle Pines North held a public hearing, with proper notice provided, to consider adoption of the Code by reference as required by law; and

WHEREAS, the City of Castle Pines North has determined, based on the evidence and testimony presented at the public hearing, that the Code, as amended herein, will further the health, safety and welfare of the inhabitants of the City.

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

**Section 1. Adoption by Reference.** The City Council hereby adopts the document titled *Douglas County Board of County Commissioners – Miscellaneous Health, Safety and Welfare Ordinances*, as published by the City of Castle Pines North Community Development Office, 7437 Village Square Lane, Suite 210, Castle Rock, Colorado 80108, in 2009, by reference as if fully set out in this Ordinance. The purpose and subject matter of the Code is to prohibit, restrict, and/or regulate the following areas in the interest of furthering the public health, safety and welfare interests of the community: (1) door-to-door selling of merchandise; (2)

possession of tobacco products by minors; (3) solicitation of vehicle occupants in public right-of-way; (4) open fires and burning; (5) curfew for minors; and (6) removal of snow and ice from sidewalks.

**Section 2. Amendments to the Code.** Additions, deletions, and amendments to the Code are hereby adopted as follows:

- A. All references to “Douglas County” or “County” shall mean “City of Castle Pines North” or “City,” as applicable, except where “Douglas County” precedes “Sheriff’s Office.” References to the Douglas County Sheriff’s Office contained within the Code shall not be amended pursuant to this Section 2.
- B. All references to the “Douglas County Treasurer or “Treasurer of Douglas County” shall mean “into the general fund of the City.”
- C. All references to the “Board of County Commissioners” shall mean “City Council.”
- D. All references to “Douglas County right-of-way” shall mean “City of Castle Pines North right-of-way.”
- E. All references to “County roads” shall mean “City streets.”
- F. All references to “18<sup>th</sup> Judicial District,” “District Court,” or “Court” shall mean “City of Castle Pines North Municipal Court.”
- G. All references to “District Attorney” shall mean “City Attorney.”
- H. All references to “unincorporated Douglas County” or “unincorporated portions of Douglas County” shall mean the “City of Castle Pines North.”
- I. All references to “unincorporated limits of Douglas County” shall mean “City limits.”
- J. All references in the Code to any general or specific statutory citation within Article 15 or Article 11, Title 30, Colorado Revised Statutes, appearing in the recital sections of the Code shall be deleted in their entirety and shall be replaced with “Title 31, C.R.S.”
- K. All references to “Section 30-15-401(1), C.R.S.” or “under section 30-15-401(1), C.R.S.” or “as amended by House Bill 96-1117” shall be deleted in their entirety.
- L. All references to “plus a surcharge of \$10 under section 30-15-402(2), C.R.S.” or “plus a \$10 surcharge” shall mean “plus applicable surcharges imposed by the City of Castle Pines North Municipal Court.”
- M. All references to “penalty assessment procedure provided in section 16-2-201, C.R.S.” shall mean “penalty assessment procedure of the City of Castle Pines North Municipal Court.”

- N. All references to “Class 2 petty offense” or “Class II petty offense” shall mean “misdemeanor.”
- O. All references to a specific dollar amount for any fine established under the Code shall mean “a fine of not more than one thousand dollars (\$1,000),” as authorized by Section 31-16-101(1), C.R.S.
- P. Any sentence containing a reference to Section 24-4.2-104(1), C.R.S. shall be deleted in its entirety.

**Section 3. Enforcement and Penalties.** The following penalties for non-compliance with the Code shall apply under this Ordinance:

A. **996-002** Requiring the Registration of Persons who Engage in Door-to-Door Selling of Merchandise or Goods and the Delivery thereof

- 1. Section 10. Any person who violates any provision of this ordinance commits a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000) for each separate violation.
- 2. Section 14. All fines imposed and collected pursuant to this ordinance shall be paid into the general fund of the City.

B. **001-003** Prohibiting the Possession of Cigarettes and Tobacco Products by Minors

1. **Section IV. Penalties and Enforcement:**

Violations of any provision of this Ordinance shall be a misdemeanor, and the penalty for a violation of any provision of this Ordinance shall be by a fine of not more than one thousand dollars (\$1,000). All fines shall be paid into the general fund of the City.

C. **002-001** Prohibiting Solicitation of Occupants of Vehicles in Roadways

1. **Section IV. Penalties and Enforcement:**

Violations of any provision of this Ordinance shall be a misdemeanor, and the penalty for a violation of any provision of this Ordinance shall be by a fine of not more than one thousand dollars (\$1,000). All fines shall be paid into the general fund of the City.

D. **003-001** Restricting Open Fires and Open Burning in the Unincorporated Areas of Douglas County

1. **Section 9. Penalty for Violations.** Any person who violates this ordinance from its effective date commits a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000) for each separate violation, plus applicable surcharges of the City of Castle Pines Municipal Court.
2. **Section 10. Penalty Assessment Procedure.** The penalty assessment procedure of the City of Castle Pines North Municipal Court may be followed by the arresting officer for any such violation of this ordinance. Pursuant to the penalty assessment procedure, the violator may pay a fine of not more than one thousand dollars (\$1,000), plus applicable surcharges of the City of Castle Pines Municipal Court.
3. **Section 11. Disposition of Fines and Forfeitures.** All fines and forfeitures for the violation of this ordinance shall be paid into the general fund of the City.
4. **Section 12. Additional Remedies.** The remedies provided in this ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, including, but not limited to, prosecution under section 18-13-109, C.R.S., or any other applicable statute, ordinance, rule, order or regulation.

E. **007-001** Imposing a Curfew for Minors who have not Reached their Eighteenth Birthday; Making it Unlawful for any Parent, Guardian, or Other Person having Legal Custody of such Minor to Knowingly Allow or Permit such Minor to Violate said Curfew; Prescribing the Penalties for Violation thereof; Providing for Enforcement; Providing for the Disposition of Fines; and Repealing all Ordinances and Resolutions in Conflict therewith

1. **Section 3. Penalties for Violations.** Any person who violates any provision of this ordinance commits a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 for each separate violation.
2. **Section 5. Disposition of Fines.** All fines imposed and collected pursuant to this ordinance shall be paid into the general fund of the City.



- F. **007-003** Requiring the Removal of Snow and Ice from Sidewalks within 24 Hours of the Cessation of Snowfall, Rescinding and Replacing Ordinance O-997-006

1. Section 6. **Violation and Penalty**

Any act or omission in violation of any of the provisions of this Ordinance shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each separate violation. Abatement of any violation by the City after notice as provided in Section 4 of this ordinance shall not preclude subsequent prosecution by the City for violation of Section 2 or 3 of this ordinance.

2. Section 8. **Disposition of Fines**

All fines imposed and collected pursuant to this ordinance shall be paid into the general fund of the City.

**Section 4. Fees.** Any fees provided for or by the Code, as adopted in this Ordinance, may be amended, modified, increased or deleted at any time, and from time to time, by resolution of the City Council.

**Section 5. Copy of Code on File.** At least one copy of the Code, as certified by the Mayor and the City Clerk to be a true copy of the same, shall be kept on file in the office of the City Clerk and available for public inspection and for purchase. Pursuant to Section 31-16-206, C.R.S., the City Clerk shall maintain a reasonable supply of copies of the Code available for purchase by the public at a moderate price.

**Section 6. Liability.** The adoption of this Ordinance and the Code provided for herein shall not create any duty to any person with regard to the enforcement or non-enforcement of said Code. No person shall have any civil liability or remedy against the City or its officers, employees or agents, for any damage arising out of or in any way connected with the adoption, enforcement or non-enforcement of this Ordinance or the Code. Nothing in this Ordinance or in said Code shall be construed to create any liability or to waive any of the immunities, limitations on liability or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S., or to waive any immunities or limitations on liability otherwise available to the City, or its officers, employees or agents.

**Section 7. Publication of Notice of Hearing.** Notice of the public hearing scheduled on adoption of this Ordinance shall be published once at least fifteen days preceding the hearing, and once at least eight days preceding the hearing, in accordance with the applicable provisions of Section 31-16-203, C.R.S.

**Section 8. Severability.** Should any one or more sections or provisions of this Ordinance or of any of the primary or secondary codes adopted by reference be judicially determined

invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or the codes adopted by reference hereby, the intention being that the various sections and provisions are severable.

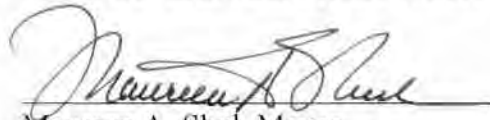
**Section 9. Repeal of Previous Ordinances.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and 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.

**Section 10. 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 8th day of October, 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 3rd day of December, 2009.**

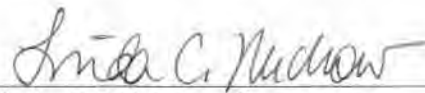
**CITY OF CASTLE PINES NORTH:**

  
Maureen A. Shul, Mayor

ATTEST:

  
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Janie Berry, City Clerk

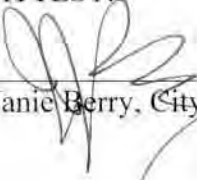
Approved as to form:

  
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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 October 8, 2009; published in full in the *Douglas County News-Press*; and finally passed and adopted by the City Council on December 3, 2009, following a duly noticed public meeting and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on January 28, 2010.

ATTEST:

  
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Janie Berry, City Clerk

