

**TOWN OF BOW MAR, COLORADO
ORDINANCE NO. 328**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR
AMENDING SECTIONS 10-53 AND 10-54 OF THE BOW MAR MUNICIPAL CODE
CONCERNING INDECENT EXPOSURE**

WHEREAS, the Town of Bow Mar Municipal Code Sections 10-53 and 10-54 currently make it unlawful for females to make an indecent exposure of their breasts in public; and

WHEREAS, the Tenth Circuit Court of Appeals has determined that such prohibitions are unlawful because they discriminate against individuals on the basis of gender; and

WHEREAS, the Board of Trustees for the Town of Bow Mar desires to amend Sections 10-53 and 10-54 as provided in this ordinance to remove references to female breasts to comply with constitutional requirements.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR, COLORADO:

Section 1. Amendment to Sections 10-53 and 10-54. Sections 10-53 and 10-54 of the Bow Mar Municipal Code are hereby amended to read in full as follows, with additions shown in underline and deletions shown in strikethrough:

Sec. 10-53. – Lewd display.

It is unlawful for any person to make a public display of nudity or any indecent exposure of the buttocks; or genitalia ~~or female breasts~~.

Sec. 10-54. – Indecent acts with minors.

It is unlawful for any person to assault any child under the age of eighteen (18) years of age; to take or attempt to take indecent or improper sexual liberties with such child; to make indecent exposure of the buttocks; or genitalia ~~or female breasts~~ to such child; to engage or attempt to engage such child in sexual intercourse, masturbation, or touching or fondling the genitals of such child; or to entice or attempt to entice such child to engage in any other sexually lewd or indecent act.

Section 2. Safety Clause. The Board of Trustees hereby finds, determines, and declares that this ordinance is necessary and proper for the health, safety, and welfare of the Town and its residents.

Section 3. Severability. If any part, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more part, section, subsection, sentence, clause, or phrase is declared invalid.

Section 4. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

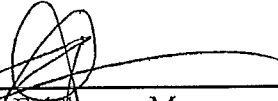
Section 5. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Bow Mar Municipal Code.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED this 17th day of February, 2020.

ATTEST:

TOWN OF BOW MAR:

By: 
Sue Blair, Town Clerk

By: 
Thomas Feldkamp, Mayor

Compliance with Section 1-46 of the Bow Mar Municipal Code:

INTRODUCED BY TRUSTEE _____

SECONDED BY TRUSTEE _____