

**TOWN OF BOW MAR, COLORADO
ORDINANCE NO. 327**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR, COLORADO APPROVING A FRANCHISE AGREEMENT BETWEEN THE TOWN OF BOW MAR AND PUBLIC SERVICE COMPANY OF COLORADO GRANTING THE RIGHT TO PROVIDE, SELL AND DELIVER GAS AND ELECTRICITY TO THE TOWN AND ITS RESIDENTS USING THE TOWN STREETS AND RIGHTS-OF-WAY, PUBLIC UTILITY EASEMENTS AND OTHER TOWN PROPERTY.

WHEREAS, Public Service Company of Colorado, a Colorado corporation (“PSCo”), has held a franchise granted by the Town of Bow Mar (“Town”) and currently provides gas and electric service in the Town as authorized by the Colorado Public Utility Commission; and

WHEREAS, pursuant to Title 31, Article 32 of the Colorado Revised Statutes, municipalities may only grant franchises pursuant to an ordinance that must be read at least twice in full, once at the time of its introduction and again before the question of its passage is voted upon by the Board of Trustees; and

WHEREAS, in compliance with Colorado law, PSCo has complied with the notice of application requirements set forth in C.R.S. § 31-32-102 prior to first reading of this ordinance, and an affidavit of publication has been provided to, and is on file with, the Town Clerk; and

WHEREAS, the Board of Trustees approved this ordinance on first reading and, as required under state law, this ordinance has been published for two consecutive weeks prior to second and final reading; and

WHEREAS, the Board of Trustees desires to grant PSCo a non-exclusive franchise for the provision of natural gas utility service to the Town and its residents pursuant to the terms set forth in this ordinance; and

WHEREAS, at public meetings held on February 17, 2020, and March 16, 2020, the Town considered PSCo’s performance and technical, financial and legal ability to provide the services, facilities and equipment to meet the future gas and electric needs and interests of the Town; and

WHEREAS, on March 16, 2020, the Board of Trustees held a properly noticed public meeting to consider adoption of the proposed franchise agreement; and

WHEREAS, the Board of Trustees adopted this ordinance by a concurrence of a majority of all of its members in compliance with C.R.S. § 31-32-104.

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

Section 1. Repeal of Code Provisions Regarding Former Agreement; Approval of New Franchise Agreement. Article III of Chapter 5 of the Bow Mar Municipal Code is hereby repealed and replaced in its entirety as set forth below:

ARTICLE III - Electric and Gas Franchise

Sec. 5-41. - Approval of franchise agreement.

The franchise agreement between the Town and Public Service Company of Colorado to provide gas and electricity service, which is incorporated herein as if set forth in full, is approved by the Board of Trustees. The franchise agreement shall be available for public inspection during normal business hours at the office of the Town Clerk.

Section 2. Approval of Franchise Agreement. The Franchise Agreement between the Town of Bow Mar and Public Service Company of Colorado attached hereto as **Exhibit A** and incorporated herein by this reference, is hereby approved, and Public Service Company of Colorado is hereby granted a franchise for a period of twenty (20) years to use the streets and rights of way, public utility easements and other town property to provide gas and electric service in the Town of Bow Mar pursuant to the terms of such Franchise Agreement. The Mayor is hereby authorized to sign the Franchise Agreement on behalf of the Town.

Section 3. Effective Date. This ordinance shall become effective as provided by law.

Section 4. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

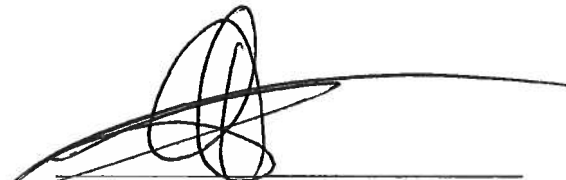
Section 5. Safety. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 6. 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 7. Codification Amendments. The codifier of the Town's Municipal Code, Municode, 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, PASSED ON FIRST READING, AND ORDERED PUBLISHED PURSUANT TO C.R.S. SECTION 31-32-103 AT A REGULAR MEETING OF THE TOWN OF BOW MAR BOARD OF TRUSTEES THE 17TH DAY OF FEBRUARY, 2020.

READ, PASSED, AND ADOPTED ON SECOND READING FOLLOWING PUBLICATION IN ACCORDANCE WITH THE REQUIREMENTS OF C.R.S. SECTION 31-32-103, AND ORDERED PUBLISHED AT A REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF BOW MAR, COLORADO, THE 16TH DAY OF MARCH, 2020.



Tom Feldkamp, Mayor

ATTEST:


Sue Blair, Town Clerk

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

INTRODUCED BY TRUSTEE Dennis

SECONDED BY TRUSTEE Fabricant