

**TOWN OF BOW MAR, COLORADO
ORDINANCE NO. 333**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR
CONVERTING THE MUNICIPAL COURT TO A QUALIFIED MUNICIPAL COURT OF
RECORD AND CONCERNING OTHER CHANGES TO CHAPTER 2, ARTICLE V OF THE
BOW MAR MUNICIPAL CODE**

WHEREAS, the Town of Bow Mar (“Town”) is a municipal corporation organized pursuant to Title 31, Article 4 of the Colorado Revised Statutes; and

WHEREAS, pursuant to Title 13, Article 10, C.R.S., the Town Board of Trustees is authorized to create a municipal court, which court may be a qualified municipal court of record or a court not of record; and

WHEREAS, Section 2-91 of the Bow Mar Municipal Code (“Code”) currently states that the municipal court of the Town, as created by the Town Board of Trustees, is not a qualified municipal court of record, as defined in Section 13-10-102(3), C.R.S.; and

WHEREAS, pursuant to Section 13-10-110 (2) and (3), C.R.S., the Town may contract with another government to provide joint court facilities and supplies and may locate court facilities outside of its boundaries, if such facilities are in reasonable proximity to the Town and the Board of Trustees determines that suitable facilities cannot be provided within the Town; and

WHEREAS, since January 1, 2019, the Town has been party to an agreement with the Town of Columbine Valley (“Columbine Valley”) entitled, “Intergovernmental Agreement (Public Safety and Municipal Court Services)” (the “IGA”), as authorized by Sections 29-1-203 and 13-10-110, C.R.S.; and

WHEREAS, pursuant to the IGA, Columbine Valley provides municipal court services for the Town, including the municipal judge and municipal prosecutor, to reduce the duplication of processes and related costs while furnishing adequate services to Bow Mar taxpayers; and

WHEREAS, Columbine Valley’s municipal court is a qualified municipal court of record, as set forth in the Columbine Valley Municipal Code; and

WHEREAS, the Board of Trustees for the Town of Bow Mar desires to convert the Town’s municipal court to a qualified municipal court of record and to make related amendments to the Code to ensure compliance with state law, to enhance and simplify judicial administration, and to minimize the duplication of municipal court processes and costs.

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

Section 1. Amending Section 2-91, Establishment of Municipal Court.

Section 2-91 of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~strikethrough~~ and additions shown in underline:

Sec. 2-91. - Establishment of Municipal Court, Contracting for Municipal Court Facilities.

There is hereby established a qualified Municipal Court of record for of the Town, pursuant to the provisions of state law and governed by the provisions of Title 13, Article 10, C.R.S. Such court is not a qualified court of record. Appeals of any final decision of the Court shall be taken to the appropriate county or district court pursuant to the provisions of state law and the rules of procedure governing municipal courts. The Board of Trustees may contract with another government to provide joint municipal court facilities and supplies, as authorized by Section 29-1-203, C.R.S. and Section 13-10-110(3), C.R.S.

Section 2. Amending Sec. 2-92, Appointment of Municipal Judge.

Section 2-92 of the Bow Mar Municipal Code is hereby amended to read as follows, with additions shown in underline:

Sec. 2-92. - Appointment of Municipal Judge. Pursuant to state law Municipal Judges shall be appointed by the Trustees, provided that if the Town has contracted with a government to provide municipal court facilities including municipal judge services as authorized by Section 2-91 of this Code, such contract shall fulfill this requirement.

Section 3. Amending Section 2-93, Compensation of Judge.

Section 2-93 of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~strikethrough~~ and additions shown in underline:

Sec. 2-93. - Compensation of Judge.

~~The compensation of Judges shall be an annual salary in an amount set by the Board of Trustees and shall be payable monthly,~~ Board of Trustees shall establish by ordinance a fixed annual compensation for the Municipal Judge payable on a monthly basis, provided that if the Town has contracted with a government to provide municipal court facilities including municipal judge services as authorized by Section 2-91 of this Code, such contract shall fulfill this requirement to the extent that the municipal judge is compensated as required by law.

Section 4. Amending Section 2-95, Original Jurisdiction.

Section 2-95 of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~strikethrough~~ and additions shown in underline:

Sec. 2-95. - Original jurisdiction; Powers of Municipal Judge.

The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and ordinances of the Town, ~~with full power to punish violators thereof by the impositions of such fines and penalties as are prescribed by ordinance or the laws of the State.~~ Unless otherwise limited by this Article, the Municipal Judge shall have all legal and equitable powers necessary and appropriate to enforce the Court's orders, judgments, and decrees, and to supervise the operation of the Municipal Court in accordance with state law, including but not limited to the power to:

(1) Enforce subpoenas issued by any board, commission, officer or other body of the Town authorized by law or ordinance to issue subpoenas, by imposing fines and penalties for failure to comply with any such subpoena;

(2) Assess and collect penalties and to set penalties for offenses under this Code by adopting a schedule by judicial order that conforms to applicable limits set out in this Code, and to waive, in part or in whole, fines based on appropriate conditions of deferrals or other plea agreements;

(3) Order and enforce the abatement of nuisances, violation of zoning regulations, and building code regulations;

(4) Issue search warrants;

(5) Summon and compel the attendance of jurors;

(6) Punish violations of this Code and contempt of the Municipal Court by a fine and/or imprisonment in conformity with this Code;

(7) Adopt local rules, procedures, court cost schedules, and schedules for conducting the business of the Municipal Court, subject to the requirement that such procedures shall be reduced to writing and must be consistent with and conform to this Article and with state law; and

(8) Perform other responsibilities prescribed by this Code and ordinances of the Town.

Section 5. Repealing Section 2-96, Procedures.

Section 2-96 of the Bow Mar Municipal Code is hereby repealed in its entirety, and hereinafter designated as “Reserved” for future use.

Section 6. Amending Section 2-98, Court Costs.

Section 2-98 of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~strike through~~ and additions shown in underline:

Sec. 2-98. - Court costs.

~~The Municipal Judge may, in his or her discretion, assess Court costs against any defendant who, after any Municipal Court appearance, pleads no contest or guilty, enters into a plea arrangement or is convicted of violating any municipal ordinance. In all such appearances, Court costs shall be fifteen dollars (\$15.00) except when trial is by jury, in which case Court costs shall be forty-five dollars (\$45.00). In all matters in which a deferred judgment is granted, Court costs in an amount not to exceed twenty-five dollars (\$25.00) shall be imposed unless waived by the Court based upon the indigence of the defendant.~~ The Municipal Judge may assess court costs against any defendant in the Municipal Court in accordance with a court cost schedule adopted by the Court pursuant to Section 2-95(7) of this Code.

Section 7. Amending Section 2-99, Contempt power.

Section 2-99 of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~strikethrough~~ and additions shown in underline:

Sec. 2-99. - Contempt power.

- (a) ~~When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed three hundred dollars (\$300.00) and imprisonment not to exceed a term of ten (10) days. Imprisonment of a juvenile contemnor shall not exceed forty-eight (48) hours.~~ When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a penalty in accordance with Section 1-72 of this Code. Imprisonment of a juvenile contemnor shall not exceed forty-eight (48) hours.
- (b) ~~In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury.~~ In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections afforded a defendant pursuant to Rule 107 of the Colorado Rules of Civil Procedure, as may be amended from time to time.

Section 8. 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 9. 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 10. 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.

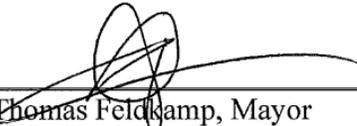
Section 11. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Bow Mar Municipal Code.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED this 17th day of May, 2021.

ATTEST:

By: 
Sue Blair, Town Clerk

TOWN OF BOW MAR:

By: 
Thomas Feldkamp, Mayor

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

INTRODUCED BY TRUSTEE CARLSON

SECONDED BY TRUSTEE RAMSDEN