

**TOWN OF BOW MAR, COLORADO
ORDINANCE NO. 334**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR
AMENDING SECTIONS 1-72 AND 1-73 CONCERNING THE GENERAL PENALTY
PROVISIONS IN THE BOW MAR MUNICIPAL CODE AND AMENDING SECTIONS 5-133,
7-14, 7-140, AND 10-121 OF THE MUNICIPAL CODE TO REFERENCE THE GENERAL
PENALTY PROVISION**

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 Ordinance No. 333, the Board of Trustees converted the Town’s municipal court to a qualified municipal court of record; and

WHEREAS, pursuant to Section 13-10-113(1), C.R.S., persons convicted of violating a municipal ordinance in a qualified municipal court of record may be fined an amount not to exceed two thousand six hundred fifty dollars, incarcerated for a period not to exceed three hundred sixty-four days, or both, provided that the fine limitations shall be adjusted for inflation; and

WHEREAS, Section 1-72 of the Bow Mar Municipal Code (“Code”) currently authorizes a fine of not more than three hundred dollars (\$300.00), or by imprisonment in jail for not more than ninety (90) days, or by both such fine and imprisonment as punishment for adults convicted of violating a municipal ordinance, in accordance with limitations on municipal courts that are not of record; and

WHEREAS, Section 1-73 of the Code currently authorizes a fine of not more than three hundred dollars (\$300.00) per violation or count as punishment for persons under 18 years of age convicted of violating a municipal ordinance, in accordance with limitations on municipal courts that are not of record; and

WHEREAS, the Board of Trustees desires to amend the general penalty provisions to reflect the fact that the municipal court has been converted to a qualified municipal court of record; and

WHEREAS, the Board of Trustees further desires to amend Sections 5-133, 7-14, 7-140, and 10-121 of the Code to reference the amended general penalty provisions.

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

Section 1. Amending Section 1-72, General Penalty for Violation.

Section 1-72 of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~striketrough~~ and additions shown in underline:

Sec. 1-72. - General penalty for violation.

~~Whenever in this Code any act is prohibited or declared to be unlawful, or the doing of any act is required and the failure to do such act is declared to be unlawful, and where no specific penalty is provided therefor, any adult person who shall be convicted of a violation of such provision of this~~

~~Code can be punishable by a fine of not more than three hundred dollars (\$300.00), or by imprisonment in jail for not more than ninety (90) days, or by both such fine and imprisonment, except as hereinafter provided in Section 1-73. In addition, such person shall pay all court costs imposed by the court. Any person who violates any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.00) or by imprisonment for a period not to exceed three hundred sixty-four days or by both such fine and imprisonment per violation or count, except as provided in Section 1-73, provided that these fine limitations shall be adjusted in compliance with Section 13-10-113(1)(b), C.R.S. Each day such violation continues shall be considered a separate offense.~~

Nothing in this Section shall prevent the court from imposing all costs, fines, surcharges and fees in any case. In addition to maximum penalties, the court may impose any other sentence conditions that the court deems appropriate.

Section 2. Amending Section 1-73, Application of Penalties to Juveniles.

Section 1-73 of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~striketrough~~ and additions shown in underline:

Sec. 1-73. - Application of penalties to juveniles.

~~Any person who has not attained the age of eighteen (18) years at the time of conviction can be punished by a fine of not more than three hundred dollars (\$300.00) per violation or count. Any juvenile who violates any provision of this Code who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, upon conviction, shall be punished by a fine of not more than two thousand six hundred and fifty dollars (\$2,650.00) per violation or count, provided that these fine limitations shall be adjusted in compliance with Section 13-10-113(1)(b), C.R.S.~~

Nothing in this Section shall prevent the court from imposing all costs, fines, surcharges and fees in any case. In addition to maximum penalties, the court may impose any other sentence conditions which the court deems appropriate.

Section 3. Amending Section 5-133(b)(4), Uses prohibited; penalty.

Section 5-133(b)(4) of the Bow Mar Municipal Code, pertaining to penalties for various violations related to marijuana, is hereby amended to read as follows, with deletions shown in ~~striketrough~~ and additions shown in underline:

Sec. 5-133. - Uses prohibited; penalty.

~~(b)(4) In addition to any other penalties that may exist under state, federal and local laws, violation of this Section shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment any person violating any section of this Article or responsible for any such violation shall, upon conviction, be punished as set forth in Section 1-72 of this Code.~~

Section 4. Amending Section 7-14, Violation - penalty.

Section 7-14 of the Bow Mar Municipal Code, pertaining to penalties for violations of Chapter 7 concerning Health, Sanitation and Animals, is hereby amended to read as follows, with deletions shown in ~~strikethrough~~ and additions shown in underline:

Sec. 7-14. - Violation - penalty.

Whenever in any section of this Chapter, or rule or regulation promulgated hereunder, the doing of any act is required, prohibited or declared to be unlawful, and no definite fine or penalty is provided for a violation thereof, any person, firm or corporation responsible for such violation shall, ~~for each offense, be fined in a sum of not more than one thousand dollars (\$1,000.00).~~ upon conviction for each offense, be punished as set forth in Section 1-72 of this Code.

Section 5. Amending Section 7-140, Violation - penalty.

Section 7-140 of the Bow Mar Municipal Code, pertaining to penalties for violations of Chapter 7, Article VI (Dogs), is hereby amended to read as follows, with deletions shown in ~~strikethrough~~ and additions shown in underline:

Sec. 7-140. - Penalties.

Any person violating any section of this Article or responsible for any such violation shall, upon conviction, be punished as set forth in Section 1-72 of this Code. ~~It is provided, however, that at least a fine of ten dollars (\$10.00) shall be imposed for a person's first conviction of this Article; at least a fine of fifty dollars (\$50.00) shall be imposed for such person's conviction under any section of this Article for a second offense which occurred within one (1) year of the offense for which the first conviction resulted; at least a fine of one hundred dollars (\$100.00) shall be imposed for such person's conviction under any section of this Article for a third offense which occurred within one (1) year of the offenses for which his or her first two (2) convictions resulted; and at least a fine of two hundred dollars (\$200.00) shall be imposed for such person's fourth and each subsequent conviction under any section of this Article for any offense which occurs within one (1) year of three (3) or more prior offenses for which such person is convicted. The minimum penalties for harboring a vicious dog shall be double the fines set forth immediately preceding in this Section, except not to exceed three hundred dollars (\$300.00), and if the owner of a vicious dog has not permanently removed such vicious dog from the limits of the Town within three (3) days following conviction of the first or any subsequent offense for harboring such vicious dog, an additional summons and complaint may be filed and served against said owner, and such continuing harboring of such vicious dog within the Town limits shall be treated as a separate offense each time three (3) days have elapsed following the first or a subsequent conviction of harboring such vicious dog.~~

Section 6. Amending Section 10-121(b), Penalties for false burglar alarms.

Section 10-121(b) of the Bow Mar Municipal Code is hereby amended to read as follows, with deletions shown in ~~strikethrough~~ and additions shown in underline:

Sec. 10-121. - Penalties for false burglar alarms.

(b) False alarm means the activation of an alarm system necessitating a response by the Police Department where criminal activity does not exist. A false alarm shall be a violation of this Code and shall be punishable ~~by a fine of fifty dollars (\$50.00)~~ as set forth in Section 1-72 of this Code.

Section 7. 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 8. 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 9. 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.

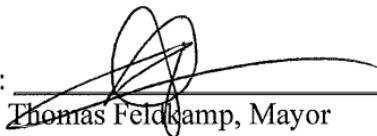
Section 10. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Bow Mar Municipal Code.

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

ATTEST:

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 CARLSTON

SECONDED BY TRUSTEE RAMSDEN