

## SUMMARY REGARDING LEGALITY OF GATE INSTALLATION:

The Town of Bow Mar ("Town") initiated a traffic study to obtain objective data in response to citizen concerns regarding cut-through traffic and excessive speeding on its residential streets. That traffic study, which was finalized in November of 2019, defined cut-through traffic as traffic that enters the Town at the Sheridan Boulevard entrance, the Prospect Street entrance, or Bow Mar Drive just south of Beach Road and that passes through the Town on the local roadways to reach a destination outside of the Town. The study showed that over 50 percent (55%-65%) of the daily traffic entering the Town at the Sheridan Boulevard and Prospect Street entrances is cut-through traffic. Daily traffic entering the Town on Bow Mar Drive just south of Beach Street traffic was determined to be comprised of 35%- 45% cut-through traffic.

The study offered several options to minimize cut-through traffic, including installing controlled access gates at numerous entrance points to the Town. The study recommended installation of traffic control gates as a means of reducing the high volume of vehicles on Town roads, which would contribute to reductions in maintenance costs as well as the health, safety, and welfare of the residents of the Town. Specifically, the study presented the option of phasing the installation of traffic control gates, and recommended starting with either the Prospect Street or Sheridan Boulevard entrances given that they facilitate a significant percentage of the Town's cut-through traffic. Consequently, the Town is currently studying the implications and feasibility of installing a gate at the Prospect Street entrance.

Because the Town owns its roads and is solely responsible for their maintenance, it can legally install gates on its roads pursuant to its police power. Although the public has a right to use public streets for purpose of passage, Colorado law grants the Town broad authority to regulate traffic reasonably and install traffic control devices within its jurisdiction. The Town's legal authority in this area is extensive, with the exceptions that it cannot regulate traffic on a state highway and it cannot deny reasonable access to the general street system. The proposal under consideration does not impact a state highway and leaves the two other entrances to the Town open to the public. Notably, Colorado jurisprudence does not prohibit the Town from installing a controlled access gate on a municipal street that limits access at that location to residents only. In fact, a Colorado Supreme Court decision expressly decided that a municipal ordinance regulating the use of streets that classified motor vehicles according to the frequency and character of their use, and making a reasonable distinction between them and other vehicles, was lawful and was a proper exercise of municipal police power for protection of the welfare and safety of the municipal residents.