

**TOWN OF BOW MAR, COLORADO
ORDINANCE NO. 346**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR
AMENDING CHAPTER 16, ARTICLE II OF THE BOW MAR MUNICIPAL CODE
CONCERNING WIRELESS COMMUNICATIONS FACILITIES**

WHEREAS; pursuant to C.R.S. Section 31-15-103 the Town of Bow Mar (the “Town”) has the authority to make and publish ordinances; and

WHEREAS, pursuant to 47 U.S.C. Section 332(c)(7), the Town retains the right to exercise generally-applicable regulations concerning the placement, construction, and modification of wireless communications facilities (“WCFs”) within the Town; and

WHEREAS, pursuant to that authority, the Board of Trustees for the Town of Bow Mar (“the Board”) previously enacted Chapter 16, Article II of the Bow Mar Municipal Code (the “Code”) which regulates the placement, construction, and modification of WCFs in Bow Mar; and

WHEREAS, 47 U.S.C. Section 332(c)(7)(B)(i)(II) prohibits local governments from enacting regulations which prohibit or have the effect of prohibiting the provision of personal wireless services. In the context of this prohibition, between 2009 and 2020, the Federal Communications Commission has promulgated a variety of rules which establish “shot clocks” within which local governments must respond to applications for the placement, construction, or modification of WCFs; and

WHEREAS, pursuant to 47 C.F.R. Section 1.6100(c)(3), local governments are required to respond within sixty days to applications which do not substantially change the physical dimensions of a WCF or its support structure and involve the collocation, like-for-like replacement, or removal of transmission equipment (“eligible facilities requests” or “EFRs”); and

WHEREAS, as passed by the General Assembly and signed into law by Governor Polis, HB25-1056 established new regulations and preemptions of local authority concerning the construction and modification of WCFs; and

WHEREAS, as modified by HB25-1056, C.R.S. Section 29-27-405(1) prohibits local governments like the Town from requiring permits for applications which meet the federal requirements for an EFR; and

WHEREAS, notwithstanding the prohibition on permits for EFR applications, C.R.S. Section 29-27-405(2) allows local governments to enforce any generally-applicable and non-discriminatory building, electrical, fire, or other safety requirements – including any permits required to comply with those requirements – for any WCF applications including applications which meet the federal requirements for an EFR; and

WHEREAS, in the interest of the health, safety, and welfare of the citizens of the Town, and visitors to the Town, the Board determines that there is need to clarify the process for applications which meet the federal requirements for an EFR within the Town, and to ensure that all other applicable Town ordinances and policies concerning the placement, construction, and modification of WCFs within the Town are applied consistent with federal and state law, by amending Chapter 16, Article II of the Code as more fully set forth herein.

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

Section 1. The recitals set forth above are hereby incorporated by reference.

Section 2. Chapter 16, Article II of the Code is hereby amended as reflected below (deletions in strikethrough and additions in underline):

* * *

Sec. 16-33. – Standards for all WCFs.

* * *

(g) Permits. Consistent with C.R.S. § 29-27-405(2), the Town may ensure that all work on WCFs – including Eligible Facilities Requests – within the Town that impacts public safety is conducted in accordance with all generally-applicable and non-discriminatory Town building, electrical, fire, or other safety permit requirements as follows:

(1) All work on WCFs which occurs within or otherwise impacts any Town rights-of-way by its very nature impacts public safety including without limitation the need to ensure the structural stability of facilities and associated infrastructure, ensuring adequate sightlines for both pedestrian and vehicular traffic, and the need control and re-route traffic; and

(2) If the Town Public Works Commissioner or their designee determines that any work to be conducted on a WCFs located on private property impacts public safety – including without limitation the need to ensure the structural stability of facilities and associated infrastructure – the Town may require generally applicable permits in accordance with this section.

* * *

Sec. 16-39. – Application and approval.

* * *

(f) Approval. Within ninety (90) days of receipt of a completed application for administrative approval, the Town shall issue a written decision approving or denying the application. This time period may be tolled only by mutual agreement or where an application is incomplete. If the application is approved, the applicant may apply for a building permit. If the application is denied, the applicant may file an appeal with the Board of Adjustment. The decision of the Board of Adjustment shall be final. Except for Eligible Facilities Requests, which are subject to the procedures of section 16-40, any decision to approve, approve, with conditions, or

deny an application for a WCF shall be in writing, supported by substantial evidence in the written record, and shall be issued by the Town as follows:

(1) For Small Cell Facilities installed on an existing tower of base station: within sixty (60) days;

(2) For Small Cell Facilities installed on a new tower or base station or the collocation or modification of an existing WCF: ninety (90) days ; or

(3) For all other WCFs: one hundred fifty (150) days.

(4) The applicable timeframe for review may be tolled if the Town determines that it cannot reasonably and adequately review the application and is also reviewing a previously submitted land use application related to housing intended to provide affordable or attainable housing, renewable energy projects, projects of governmental entities, or any other project that state federal, or local law establishes a timeline for review.

(5) The timeframes for review under this subsection shall apply only to applications for WCFs under this Article, and any other application specific to a specific wireless site, and shall not apply to any building, right-of-way, or any other non-wireless site-specific permit issued by the Town pursuant to the provisions of this Code. Unless agreed to by applicant and the Town, if a decision on the application is not issued according to the timeframe provided above, the application shall be deemed approved and the permit shall be issued. If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.

* * *

Section 4. 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 5. 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 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.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED this 20th day of April, 2026.

ATTEST:

By: 
Sue Blair, Town Clerk

TOWN OF BOW MAR:

By: 
Bryan Sperry, Mayor

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

INTRODUCED BY TRUSTEE CARLSON

SECONDED BY TRUSTEE PETERSON